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**Two for the Price of One:
Integration of NEPA and NHPA Procedures
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Abstract

This project reviews procedural documents from the Army, Navy, Marine Corps, and Air Force that provide guidance for each service to implement the requirements of the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). Through synthesizing NEPA and NHPA requirements across all services, the project considers where the two actions can be effectively integrated to reduce costs and implementation time. Case studies are used to determine the effectiveness of combining NEPA and NHPA actions and to understand how these issues are currently being addressed.

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Preface

This study was conducted for the Department of Defense (DoD) Legacy Resource Management Program-under Project #12-520, “Two for the Price of One: Integration of NEPA and NHPA Procedures.” The sponsor’s technical monitor was Kelly Merrifield, Cultural Resource Management Specialist.

The work was performed by the Land and Heritage Conservation Branch (CN-C) of the Installation Division (CN), US Army Engineer Research and Development Center, Construction Engineering Research Laboratory (ERDC-CERL). At the time of publication, Dr. Christopher White was Branch Chief, CEERD-CN-C; Michelle Hanson was Division Chief, CEERD-CN; and Alan Anderson was the Technical Director for Military Ranges and Lands, CEERD-CV-T. The Deputy Director of ERDC-CERL was Dr. Kirankumar Topudurti, and the Director was Dr. Ilker Adiguzel.

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Acronyms and Abbreviations

AAP	Army Alternate Procedure
ACHP	Advisory Council for Historic Preservation
AFB	Air Force Base
AFI	Air Force Instruction
AFPD	Air Force Policy Directive
AR	Army Regulation
AT/FP	Anti-Terrorism/Force Protection
BLM	Bureau of Land Management
BRAC	Base Realignment and Closure
CAA	Clean Air Act
CATEX/CE	Categorical exclusion
CEQ	Council on Environmental Quality
CERL	Construction Engineering Research Laboratory
CES/CEA	375th Civil Engineering Squad/Asset Management Flight
CFR	Code of Federal Regulation
CONUS	Continental United States
CTC	Combat Training Center
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DA	Department of Army
DAF	Department of Air Force
DEIS	Draft Environmental Impact Statement
DoD	Department of Defense

DODI	Department of Defense Instruction
DODD	Department of Defense Directive
DOI	Department of Interior
DoN	Department of Navy
DOPAA	Description of Proposed Actions and Alternatives
EA	Environmental Assessment
EBS	Environmental Baseline Survey
EIAP	Environmental Impact Analysis Process
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
EPF	Environmental Planning Function
ERDC	Engineer Research and Development Center
ESA	Endangered Species Act
FHWA	Federal Highway Administration
FONPA	Finding of No Practical Alternative
FONSH	Finding of No Significant Harm
FONSI	Finding of No Significant Impact
FR	Federal Register
FUB	Facility Utilization Board
FWS	US Fish and Wildlife Service
ICRMP	Integrated Cultural Resources Management Plan
IDEA	Installation Development Environmental Assessment
IDP	Installation Development Plan
INRMP	Integrated Natural Resources Management Plan

JRTC	Joint Readiness Training Center
MBTA	Migratory Bird Treaty Act
MCO	Marine Corps Order
MMPA	Marine Mammal Protection Act
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
NASA	National Aeronautics and Space Administration
NEPA	National Environmental Policy Act
NHL	National Historic Landmark
NHPA	National Historic Preservation Act
NOA	Notice of Availability
NOI	Notice of Intent
NPI	National Preservation Institute
NPS	National Park Service
NRHP	National Register of Historic Places
NSGL	Naval Station Great Lakes
OEIS	Overseas Environmental Impact Statement
PA	Programmatic Agreement
POC	point of contact
REC	Record of Environmental Consideration
RIA	Rock Island Arsenal
ROD	Record of Decision
SECNAVINST	Secretary of the Navy Instruction
SHPO	State Historic Preservation Officer
SOP	Standard Operating Procedure
THPO	Tribal Historic Preservation Officer

TRANSCOM	Transport Command
USC	United States Code
USFS	US Forest Service
USMC	United States Marine Corps
WWII	World War II

1 Methodology

1.1 Background

The National Historic Preservation Act of 1966 (NHPA; US Congress 1996) established a national policy to protect and preserve the historical and archaeological sites in the United States. Consequently, NHPA required federal agencies to consider the historic importance of properties under their administration. The National Environment Policy Act (NEPA; US Congress 1970) was signed into law by President Nixon on 1 January 1970. Its purpose was to establish a national policy for the environment which included the establishment of the Council on Environmental Quality (CEQ). Through enacting NEPA, Congress realized that nearly all significant federal actions would affect the environment in some capacity. This realization led to the mandate that federal agencies must consider the effects of their actions on the quality of the human environment before making any decision.

Section 106 of the NHPA requires federal agencies to consider the effects of undertakings on historic properties. Section 800.8(c) of the act allows the use of NEPA processes to meet Section 106 requirements. Under this subsection, an agency can use the NEPA process and the documents it produces to comply with Section 106 in lieu of the procedures set forth in Sections 800.3–800.6. NEPA also recommends combining documentation (where possible) and working to avoid duplication. Thus, existing law and regulation under both acts provides for the possibility of joint documentation and review. However, lacking an approved set of specific procedures, it appears that this is not a regular practice by persons preparing documentation in response to either act, and the likelihood is that many more actions proposed by the military services, especially those involving new construction, could benefit from utilizing a combined process.

In recent years, the Advisory Council for Historic Preservation (ACHP) has repeatedly issued statements requesting federal agencies to streamline their environmental and cultural resources impact assessment processes. These statements have been endorsed by federal land management agencies such as the National Park Service (NPS). However, the ACHP statements extol the virtues of NEPA/Section 106 streamlining, while providing

minimal guidance on how to proceed. Consequently, there is no standardized process in place within any military service. Instead, an individual determination is made by each proponent regarding how and when to perform the appropriate procedures to meet both sets of regulations. The result is that in the absence of specific approved guidance, the regulations of most services do not easily allow this deviation from normal procedures.

1.2 Objectives

Reviews of existing installation procedures and documents were evaluated for (a) steps that worked, (b) processes that did not, and (c) procedures to be combined for more efficiency. Findings from our reviews and lessons learned are documented in this report.

1.3 Approach

For this effort, a review was conducted of procedural documents, management plans, and environmental assessments (EAs) for Department of Defense (DoD) installations. The review included an Army installation, an Air Force Base (AFB), and a Naval Station within Illinois, and two installations outside Illinois (when substantive information could not be found within the state).

The reviews extended beyond three tri-service examples to document other cases throughout DoD (and from other agencies) where some form of combining either documentation and/or process has been employed. For example, the US Forest Service (USFS), US Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) have programs which create military-comparable needs for coordination under NHPA and NEPA, and their sources were mined for examples which may shed light on combining the processes. Successful elements from these cases were reviewed for possible inclusion in the recommended procedures.

This project also reviewed the ACHP and CEQ draft and final handbook "NEPA and NHPA- A Handbook for Integrating NEPA and Section 106". From reviewing case studies and the handbook, this project's authors propose best practices for managers to coordinate, integrate, and potentially consolidate their NEPA and NHPA processes. These best practices can be used as guidance from which each service may develop its own procedures that most effectively combines mission with the actions being proposed.

1.3.1 Example installations

Three primary locations were selected for NEPA and NHPA integration evaluation. The sites are located within Illinois to provide a consistent baseline for evaluation through their shared State Historic Preservation Office (SHPO) contacts. The chosen locations were U.S. Army Rock Island Arsenal, Rock Island, Illinois; Scott AFB, Belleville, Illinois; and Naval Station Great Lakes, near North Chicago in Lake County, Illinois.

1.3.2 Analysis and evaluation

This report captures lessons learned from a review of specific case studies, thereby providing NEPA and NHPA Section 106 practitioners with an understanding of unified processes and strategies to comply with requirements of both Acts. In addition, a recommended set of procedures which complies with DoD and service regulations was developed for possible adoption and/or integration into existing guidance documents.

This project proposes savings in both direct costs and implementation time. Integration of Section 106 NHPA and NEPA compliance procedures will reduce man hours (and therefore cost) of site assessment procedures and minimize duplicated consulting and contracting efforts (implementation time). Timelines for both NEPA and NHPA have procedures often requiring 24–36 months or more; thus, there is the potential to save at least a year, and maybe more, in the project implementation process. Since the public stakeholders involved in both processes are often from the same state or local organizations, considerable time will be saved for them as well. In addition, the military procedures will appear better organized to these state and local personnel, providing an added benefit to installation relationships. A land management approach that integrates environmental and cultural resources concerns provides a more holistic understanding of federal lands, resulting in improved management at a reduced cost. Additionally, integration of NHPA and NEPA compliance will expedite project planning, permitting, and approval processes for Garrison Commanders, installation training and environmental coordinators, and other non-defense federal land managers. The results of this effort will be applicable on all DoD facilities in the continental United States (CONUS) as well as for defense-managed lands not owned in fee.

2 Federal Requirements for NHPA and NEPA

The NHPA and NEPA are similar in several ways, a fact which supports the integration of actions required under both laws. First, both are procedural laws passed to ensure federal decision makers are informed about potential effects on human health and the environment, including historic resources. The requirements of each law outline a process that considers alternatives, plans to make informed decisions, and documents the decision made. To achieve these goals, both NHPA and NEPA incorporate a public process in which stakeholders can voice concerns or objections to ensure that problems can be mitigated or avoided.

2.1 National Historic Preservation Act

The NHPA expanded the policy of preservation of historic resources originally stated in the Historic Sites Act of 1935 (US Congress 1935). It established a national policy to expend resources to protect and preserve the historical and archaeological sites in the United States. Consequently, NHPA requires federal agencies to consider the historic importance of properties under their administration. Preserving historic properties conserves the nation's heritage through increasing knowledge about historic resources. This process includes establishing better means of identifying and administering federal properties to maintain their cultural, educational, aesthetic, and economic benefits. The NHPA established the National Register of Historic Places (NRHP) which incorporated National Historic Landmarks (NHL) as established by the Historic Sites Act. Under these provisions, federal agencies—with the concurrence of the SHPO—work together to identify, nominate, and maintain eligible properties (US Congress 1966).

2.1.1 NHPA requirements

The actions outlined in Sections 106 and 110 of the NHPA are the most significant for compliance. Section 106 requires federal agencies to consider the effects of their undertakings on historic properties, while also giving the ACHP an opportunity to comment on proposed actions. This review process includes all stakeholders of the property, to determine if an agency's proposed actions could potentially affect historic properties. The pro-

cess includes identifying historic properties, assessing potentially adverse effects, resolving adverse effects, and implementing the terms of the agreement. Section 110 expands and makes explicit the responsibilities a federal agency has to identify and protect historic properties. To meet those responsibilities, each federal agency must establish a preservation program to identify, evaluate, nominate, and protect historic properties under their administration. Agency planning is required to consider the historic, archaeological, architectural, and cultural values conveyed by historic properties. Thus, Section 110 establishes the criteria for integrating preservation planning into all federal agency programs.

The relevant sections from Sections 106 and 110 of the NHPA are given below:

Section 106 (16 USC 470f)

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking.

Section 110 (16 USC 470h-2)

(a) (1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent

feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(g), any preservation, as may be necessary to carry out this section.

(2) Each Federal agency shall establish (unless exempted pursuant to Section 214), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties.

Figure 1 shows the basic process that must be followed while evaluating the effects of a proposed undertaking on a historic property.

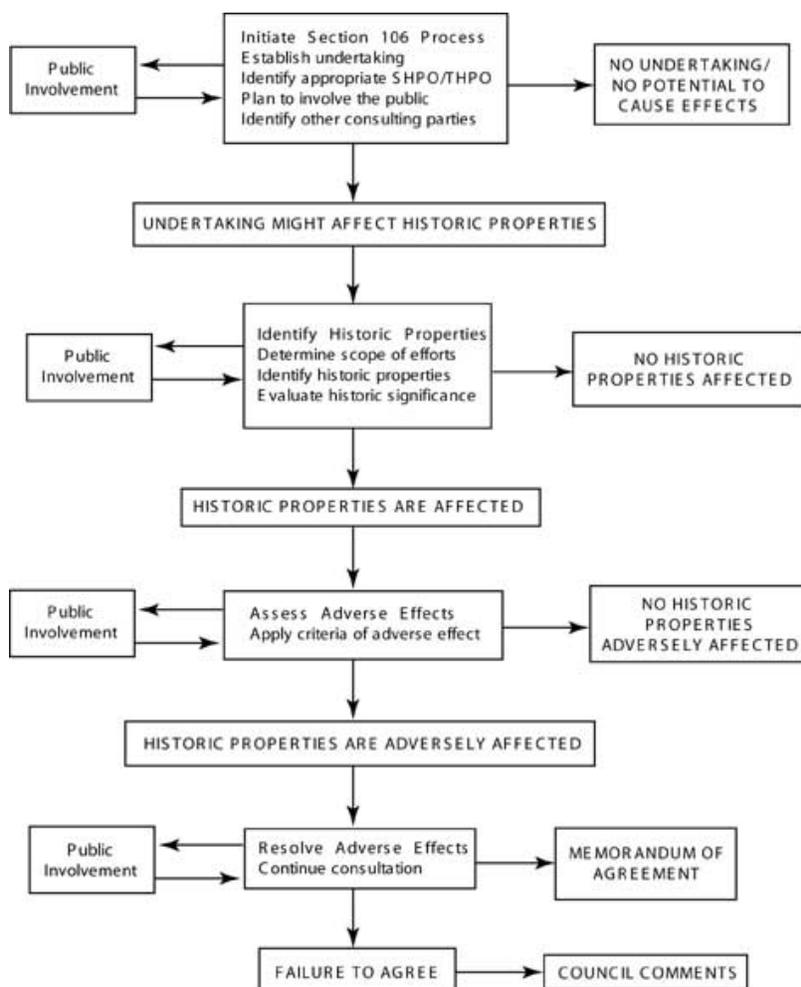


Figure 1. Flow chart of the NHPA evaluation process.

2.1.2 Independent agencies

According to ACHP guidance, Section 106 duties can be coordinated “with any reviews required under other authorities such as the National Environmental Policy Act, the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, the Archeological Resources Protection Act, and agency-specific legislation” (ACHP 2002). However, for another review to substitute for a Section 106 action, a Programmatic Agreement (PA) or approval of alternate procedures must already be in place with the ACHP to be in compliance. Additionally, regulations permit compliance with Section 106 through the use of the NEPA process and documentation efforts as long as the steps and standards of Section 800.8(c) of Section 106 are met.

The ACHP guidance for integrating NEPA into the Section 106 process (ACHP 2002) is outlined as:

Under NEPA, agencies have broad responsibilities to be concerned about the impacts of their activities on the environment, including historic properties. To an extent, NEPA addresses some of the same concerns as NHPA, for instance regarding identification of irreversible effects.

Although Section 106 is a totally separate authority from NEPA—and is not satisfied simply by complying with NHPA—it is perfectly reasonable for agencies to coordinate studies done and documents prepared under Section 106 with those done under NEPA. ACHP's regulations provide guidance on how the NEPA and Section 106 processes can be coordinated (Section 800.8(a)). They also set forth the manner in which a Federal agency can use the NEPA process and documentation to comply with Section 106 (Section 800.8(c)).

2.2 The National Environmental Policy Act of 1969, as amended

“The passage of the National Environmental Policy Act in 1969 marked the beginning of a new era of environmental consciousness. The act established federal agency goals for enhancing and preserving natural resources, created the Council on Environmental Quality, and introduced the environmental impact statement process” (Arnold and Wiener 1989, 61-62). NEPA was more encompassing than NHPA and required federal agencies to consider a wide variety of environmental consequences when planning a project, including an effort to “preserve important historic, cultural, and natural aspects of our national heritage” (US Congress 1970). NEPA was signed into law by President Nixon on 1 January 1970. As stated in the quote above, by establishing a national policy for the environment, it included the establishment of CEQ. Through enacting NEPA, Congress realized that nearly all federal actions would affect the environment in some capacity. This realization led to the mandate that federal agencies must consider the effects of their actions on the quality of the human environment before making any decision.

Documentation of an agency's efforts to comply with the law was also required, thus providing a systematic, intrinsic record of environmental impacts and mitigation strategies. Therefore, any new undertaking needs to

comply throughout all phases of the NEPA process. The effects of NEPA resulted in a more broad-based approach to decision making and planning on Army installations. It became advantageous for the installation's Master Planning office to include input from the Environmental office, including natural and cultural resources personnel. The NEPA process requires EAs and environmental impact statements (EISs) to be developed to determine the effects of a proposed action on natural or cultural resources. EAs and EISs are used by managers to make informed environmental decisions when considering and planning new projects.

2.2.1 NEPA requirements

NEPA unifies the environmental decision-making process across federal agencies. The Act requires federal agencies to consider environmental consequences during planning stages to foster "conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans" (Title I, Section 101 of the statute in Caldwell 1997, 31). The policy also contains an "action-forcing provision to compel agencies to document their efforts to comply with the policy set forth in the law" (Smythe 1997, 12). Agencies are directed to use a "systematic, interdisciplinary approach" ensuring the integration of natural and social sciences and environmental design arts into planning and decision making (Clark 1997, 17). As a result, NEPA requires federal agencies to conduct EAs and EISs to make informed environmental decisions when considering and planning new projects.¹ In addition to gathering and documenting environmental data, the NEPA procedures also require federal agencies to make this information available to public officials and citizens before any actions were taken. Figure 2 illustrates the basic steps an agency must address during the NEPA process.

2.2.2 Independent agencies

36 CFR 800 Protection of Historic Properties, Final Rule²

The ACHP regulations found in 36 CFR 800 are the main guidelines for federal historic preservation. Throughout the regulations are many exam-

¹ <http://ceq.hss.doe.gov/nepa/regs/nepa/nepaegia.htm>

² <http://www.law.cornell.edu/cfr/text/36/chapter-VIII>.

³ <http://www.achp.gov/regspreamble.html>.

ples where NEPA and NHPA actions can be combined. Integration of these actions comes primarily through preparing documents, and the requirements specifically state that the “actions a Federal agency must take in making a binding commitment in NEPA documents to carry out measure to avoid, minimize or mitigate adverse effects and thereby use the NEPA process to comply with Section 106 requirements.”³ Refer to Appendix A for additional information on ACHP.

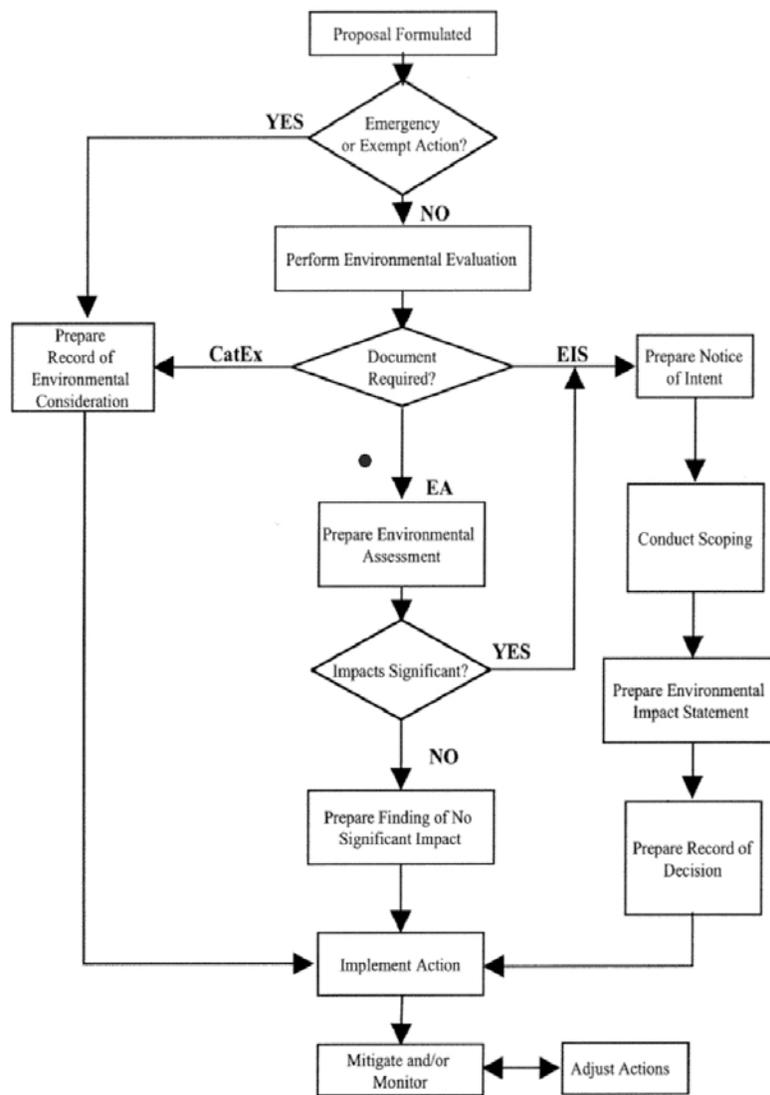


Figure 2. Flow chart of the NEPA process.

2.3 Conclusions

The Department of the Interior (DOI) provides the most comprehensive strategies for integrating NEPA processes with NHPA requirements. Through the BLM's instruction on coordinating the compliance with the two legislative acts, to the NPS instructions on the NEPA planning process, the DOI has been successful in addressing the issues of integration.

Additionally, a DOI memo dated 29 January 2008 reviewed a handbook on combining NEPA with other federal laws. This, *National Environmental Policy Act Handbook* (BLM 2008), provided guidance on ways to achieve efficiencies in the NEPA process and other federal environmental statutes. The handbook covered coordination and compliance with the environmental areas of air quality, endangered species, and wetlands, but also included historic properties. Not every environmental law was addressed, only those most frequently included in a federal agency's NEPA analyses. Although the procedures presented in the handbook provide methods for more effective and efficient use of the NEPA process, the guidance was intended as best management practices rather than required actions.

Regarding historic properties, the handbook encourages the integration of the Section 106 process into an agency's NEPA process so that "through coordination, information and analyses-sharing, compliance can be completed in a streamlined fashion that minimizes the duplication of effort" (CEQ and ACHP 2013, 7). At the time the handbook was reviewed, the ACHP had yet to publish guidance on interpreting 36 CFR 800.8. Accordingly, the document outlined two approaches for harmonizing Section 106 and NEPA reviews. NEPA and Section 106 processes can be conjoined either through parallel or integrated approaches. With both approaches, however, the fundamental considerations for integration are accomplished by the early consideration of historic properties and Section 106 responsibilities within the NEPA process.

With the *parallel approach*, Section 106 compliance steps are conducted concurrently with an agency's NEPA process. Although the two processes are not fully integrated, this method does allow for simultaneous timing of public participation, review, and decision points. It is up to the agency to decide whether Section 106 consultation meetings are held separately from other environmental coordination meetings, and the agency is free to develop independent documents to detail and support findings and deter-

minations regarding historic properties (CEQ and ACHP 2013, 9). Depending on document scheduling, any documentation developed or outcomes reached through an agency's compliance with the four-step Section 106 review (CEQ and ACHP 2013, 8) can be incorporated into their NEPA documents and decisions.

The *integrated approach* is detailed in 36 CFR 800.8(c) which states that the NEPA process may be used to fulfill an agency's Section 106 requirements. By using this approach, the full integration of Section 106 consultation is combined with environmental reviews. There are several benefits to this approach including data sharing, cost and time savings, and the "ability to present the big picture of a proposed action during preliminary planning and design development."⁴ The integration of these actions, however, cannot act as a program alternative to the Section 106 process, but can be applied on a project-by-project basis as appropriate.

⁴<http://training.fws.gov/EC/Resources/nepa/cd/CEQ%20and%20FWS%20Regs/NEPA%20and%20NHPA%20Handbook.pdf> page 9.

3 Compliance Requirements

Like other federal agencies, the DoD has published regulations for complying with NEPA and NHPA. DoD cultural and environmental resources management requirements are largely based on the NHPA of 1966, NEPA of 1969, EO 11593 “Protection and Enhancement of the Cultural Environment,” and EO 11514 “Protection and Enhancement of Environmental Quality” (Nixon 1970, 1971). Collectively, these requirements forced the military to consider the impacts on the natural and cultural resources found on DoD properties.

While DoD guidance is lacking on integrating the processes of NEPA and NHPA, DoD regulations do reflect CEQ’s emphasis on combining appropriate processes when planning any undertaking. This chapter outlines NEPA and NHPA requirements that encourage integration of NEPA and NHPA for each service—the Department of Army, Department of Navy and Marine Corps, and the Department of Air Force.

3.1 Department of Army

The Department of Army (DA) follows CEQ and DoD guidance for complying with NEPA and NHPA requirements. Like many other federal agencies, the Army has established regulations based on legislation, to address actions that are specific to Army planning actions.

3.1.1 Legislative guidance

*32 CFR 651—Environmental Analysis of Army Actions (29 March 2002)*⁵

32 CFR 651 presents the policy and procedures for implementing NEPA and CEQ regulations in the Army. Sections that address combining NEPA requirements with other federal laws are stated below. Pertinent sections of 32 CFR 651 are excerpted below.

⁵ http://www.asaie.army.mil/Public/IE/Toolbox/documents/32_cfr_part_651.pdf

32 CFR 651.14—*Integration with Army planning*

(a) *Early integration.* The Army goal is to concurrently integrate environmental reviews with other Army planning and decision-making actions, thereby avoiding delays in mission accomplishment. To achieve this goal, proponents shall complete NEPA analysis as part of any recommendation or report to decision makers prior to the decision (subject to 40 CFR 1506.1). Early planning (inclusion in Installation Master Plans, INRMPs, ICRMPs, Acquisition Strategies, strategic plans, etc.) will allow efficient program or project execution later in the process.

(2) Decision makers will be informed of and consider the environmental consequences at the same time as other factors such as mission requirements, schedule, and cost. If permits or coordination are required (for example, Section 404 of the Clean Water Act, Endangered Species Act consultation, Section 106 of the National Historic Preservation Act, etc.), they should be initiated no later than the scoping phase of the process and should run parallel to the NEPA process, not sequential to it. This practice is in accordance with the recommendations presented in the CEQ publication entitled “The National Environmental Policy Act: A Study of Its Effectiveness After Twenty-five Years.” (CEQ 1997)

(e) *Analyses and documentation.*

Several statutes, regulations, and Executive Orders require analyses, consultation, documentation, and coordination, which duplicate various elements and/or analyses required by NEPA and the CEQ regulations; often leading to confusion, duplication of effort, omission, and, ultimately, unnecessary cost and delay. Therefore, Army proponents are encouraged to identify, early in the NEPA process, opportunities for integrating those requirements into proposed Army programs, policies, and projects. Environmental analyses required by this part will be integrated as much as practicable with other environmental reviews, laws, and Executive Orders (40 CFR 1502.25). Incorporation of these processes must ensure that the individual requirements are met, in addition to those required by NEPA. The NEPA process does not replace the procedural or substantive requirements of other environmental statutes and regulations. Rather, it addresses them in one place so the decision maker has a concise and comprehensive view of the major environmen-

tal issues and understands the interrelationships and potential conflicts among the environmental components. NEPA is the “umbrella” that facilitates such coordination by integrating processes that might otherwise proceed independently. Prime candidates for such integration include (among many)...

(3) NHPA, Sections 106 and 110.

(30) Integrated Cultural Resources Management Plan as required by AR 200-4 and DoDD 4700.4, Natural Resources Management Program.

3.1.2 Army Regulations

AR 200-1—Environmental Protection and Enhancement, revised 13 December 2007)⁶

AR 200-1 is the overarching Army Regulation (AR) for managing natural and cultural resources. AR 200-1 synthesizes requirements from past versions of AR 200-1. The 2007 revision includes only environmental policy requirements and provides general environmental responsibilities for installation commanders, which include:

- establish a structure to plan and execute environmental programs;
- integrate environmental and cultural protection into the execution of the command’s basic mission;
- cooperate with regulators to maintain environmental compliance;
- provide regulators access to facilities to monitor compliance;
- report indications of environmental crises immediately through the command channels to the Office of the Director of Environmental Programs; and
- conduct a public affairs program to support the Army’s environmental program.

⁶ U.S. Army. Army Regulation 200-1: Environmental Protection and Enhancement. (Washington, DC: Headquarters Department of the Army, 2007). Accessed online. http://www.apd.army.mil/pdffiles/r200_1.pdf.

AR 200-4—Cultural Resources Management (1 October 1998, later superseded by AR 200-1 revision: US Army 2007)

AR 200-4 was superseded by the 2007 revision of AR 200-1. However, the document provided important information on how NEPA and NHPA processes can be combined. AR 200-4 was the Army regulation dealing specifically with coordinating cultural resources management issues into the organizational chain of command, including Integrated Cultural Resources Management Plans (ICRMP), Integrated Natural Resources Management Plans (INRMP), NHPA Section 106 and 110 processes, and NEPA compliance. Similar to other guidance, this regulation reinforced the need for integrating processes to reduce duplicated efforts. However, few specifics were given for how to effectively accomplish integration of NEPA and NHPA processes.

3.1.3 Army Alternate Procedures to Section 106 according to the ACHP

(13 July 2001; amended 25 March 2004; see ACHP 2004)

The Army Alternate Procedures (AAP) is a streamlined set of procedures that can be used by Army installations in place of 36 CFR Part 800. The AAP calls for a more programmatic approach to historic properties and allows the Army to have more congruent management and implementation procedures among all of their historic properties. These procedures allow the Army to implement necessary actions on their historic properties for five years without a formal review process for every project. The AAP provides significant benefits to the Army because they allow “more flexibility, seamless project execution, significant cost avoidance and internal resolution of adverse effects” (U.S. Army n.d.). After being approved by the ACHP, the Army adopted them as their procedures.

3.1.4 Integrated Cultural Resources Management Plan

(in former AR 200-4; see US Army 1998)

An ICRMP is a five-year plan to provide for the management of cultural resources in a way that maximizes beneficial effects on such resources and minimizes adverse effects and impacts without impeding the mission. An ICRMP addresses compliance with the requirements of Section 106 of the NHPA. The plan is a component of the installation master plan that is a decision-making document for cultural resources management actions and specific compliance procedures. ICRMPs are not required by any stat-

ute or regulations other than the former AR 200-4 and the revised AR 200-1. ICRMPs are subjected to NEPA analysis and documentation requirements.

3.1.5 Integrated Natural Resources Management Plan (INRMP)

An INRMP is the installation commander's adaptive plan for managing natural resources to support and be consistent with the military mission while protecting and enhancing those resources for multiple use, sustainable yield, and biological integrity. The management of natural resources is a series of processes over a long period. The INRMP provides incremental steps to achieve those long-term goals, and normally includes a five-year schedule of activities.

3.2 Department of Navy (DoN)

32 CFR 775—Procedures for Implementing the National Environmental Policy Act (20 August 1990)

The purpose of 32 CFR 775 is to implement the provisions of NEPA, the CEQ regulations for implementing the procedural provisions of NEPA, and the Department of Defense Instruction (DoDI) on Environmental Planning Analysis (DODI 4715.9) and then to assign responsibilities within the Department of the Navy (DoN) for preparation, review, and approval of environmental documents prepared under NEPA. This document also established the policies and responsibilities that apply to the DoN actions with environmental effects in the United States, its territories, and possessions.

3.2.1 Environmental directives and instructions

32 CFR 775 —Procedures for Implementing the National Environmental Policy Act (20 August 1990)

This regulation (published at 55 FR 33899) supplements Department of Defense regulations (32 CFR 214) by providing policy and assigning responsibilities to the Navy and Marine Corps for implementing the CEQ regulations (40 CFR 1500-1508) implementing procedural provisions of NEPA. The policies and responsibility assignments of this part apply to the Office of the Secretary of the Navy, the Department of the Navy, and the Navy and Marine Corps operating forces and shore establishments. See 32 CFR 775.

SECNAVINST 5090.8: Policy for Environmental Protection, Natural Resources, and Cultural Resources Programs (18 December 2000)

This instruction establishes policy and assigns responsibilities within the DoN concerning environmental protection, natural resources, and cultural resources programs. It establishes DoN policy to integrate environmental protection, natural resources, and cultural resources programs considerations into all DoN operations and activities; and to fully comply with all applicable federal, state, and local laws and regulations, executive orders (EOs), environmental requirements, and international agreements.

SECNAVINST 5090.6: An Evaluation of Environmental Effects from Department of Navy Actions (26 April 2004)

This instruction establishes policy and assigns responsibilities to the Navy and Marine Corps for the evaluation of environmental effects from continuing and future Department of the Navy actions. It addresses actions of the Navy and Marine Corps operating forces and shore establishment with respect to environmental effects both within the United States and abroad to include effects on the global commons.

OPNAVINST 5090.1C: Environmental and Natural Resources Program Manual (30 October 2007)

This is the primary guidance for the management of the environment and natural resources for all Navy ship and shore activities. It discusses federal regulations, DoD requirements, DoN requirements, delineates responsibilities, and issues policy. It requires all Navy activities to comply with all applicable federal, state, and local environmental policies, regulations, and requirements. This instruction also addresses the additional requirements imposed on ships and shore activities by State and local government's agencies. This instruction is applicable to all Navy commands afloat and ashore.

5-1.4 General. Navy environmental planning is the process of identifying and assessing the environmental effects of proposed actions in order to allow informed decision-making. Preparation of an environmental planning document is often used as a vehicle to facilitate and document compliance with a host of other environmental requirements, including, but not

limited to, the Clean Air Act (CAA); Clean Water Act (CWA); CZMA; National Historic Preservation Act (NHPA); MSFCMA; Fish and Wildlife Coordination Act; Marine Protection, Research and Sanctuaries Act; Migratory Bird Treaty Act (MBTA); Pollution Prevention Act; MMPA; ESA; E.O. 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations); E.O. 13045 (Protection of Children from Environmental Health Risks and Safety Risks); and E.O. 13089 (Coral Reef Protection).

5-1.7.3 Completion of Required Consultations, Coordination, and Authorization Processes

a. Compliance action under all applicable environmental protection statutes (including but not limited to ESA, MMPA, CZMA, NHPA, etc.) shall be completed before a FONSI or FONSH may be signed or an FEIS or final OEIS may be published (reference (k)).

5-2.2.2 Documenting Use of a CATEX.

(3) A record of CATEX may be necessary to demonstrate compliance with the consultation and coordination requirements of other laws, regulations, and policies (e.g., ESA, NHPA) when the "kickout" criteria are determined not to apply.

27-2.4 National Historic Preservation Act.

Established the National Register of Historic Places (National Register) and the Advisory Council on Historic Preservation (Advisory Council). Additionally, requires each federal agency to designate a qualified federal Preservation Officer who will coordinate that agency's activities under this Act. Section 106 of the Act requires federal agencies to take into account the effects of their undertakings on historic properties. Federal agencies must also allow the Advisory Council an opportunity to comment whenever agency undertakings may affect historic properties or resources that are eligible for listing on the National Register.

Section 110 of the Act requires federal agencies to identify, evaluate, inventory, and protect historic properties (or resources that are eligible for listing on the National Register) on properties that they control. NHPA imposes no absolute preservation requirement, as long as the Navy follows and documents mandated procedures for any Navy decision regarding undertakings that affect cultural resources. See reference (c) for further guidance.

3.2.2 US Marine Corps (USMC)

USMC procedural requirements for NEPA:

1. NEPA MCO P5090.2A Chapter 12, Change 2 (Environmental Compliance and Protection Manual (1 July 1998))
2. USMC NEPA Manual (internal document not for public release)

USMC procedural requirements for NHPA:

1. Cultural Resources Management MCO P5090.2A, Chapter 8, Change 2
2. USMC ICRMP Guidance Feb 2009 (internal document not for public release)
3. SECNAVINST 4000.35A DoN Cultural Resources Program

United States Marine Corps National Environmental Policy Act (NEPA) Manual (8 September 2011, version 2.0)

This document provides guidance for implementing the requirements of NEPA. It is not policy.

Adverse impacts under other laws do not automatically translate into a significant impact in a NEPA analysis (conversely, stating that a proposed action “would be carried out in compliance with applicable regulatory requirements” does not mean that there would be no impacts or that the impacts would be insignificant). For example, the NHPA Section 106 implementing regulations at 36 CFR 800.8 (coordination with the NEPA) states: “A finding of adverse effect on a historic property does not necessarily require an EIS under NEPA.” While compliance with such laws as the

Clean Air Act (CAA), NHPA, and Endangered Species Act (ESA) should be coordinated with the NEPA process, compliance with one does not necessarily substitute for compliance with the other legislation concerning environmental impacts. However, the determination of an impact under such laws as the CAA, NHPA, and ESA can be an important factor in determining intensity and significance per 40 CFR 1508.27(b)(8), (9), and (10). Impacts under these other laws can also affect the level of NEPA analysis, such as the presence of extraordinary circumstances that triggers an EA instead of a CATEX.” (United States Marine Corps National Environmental Policy Act (NEPA) Manual 2011, 35-36).

The CEQ regulations provide limited guidance on the methods that agencies should use to determine impacts in an EA or EIS analysis. Agencies commonly use other environmental laws as “evaluation criteria” in an EA or EIS. For example, impacts on cultural resources are typically evaluated in terms of compliance with NHPA Section 106, and impacts on air quality are typically evaluated in terms of the CAA conformity rule. Methodologies and evaluation criteria should be concisely explained for each resource or issue of concern analyzed in an EA or EIS (United States Marine Corps National Environmental Policy Act (NEPA) Manual 2011, 38).

Where feasible, analysis of the proposed action under NEPA should be coordinated with review of the action under Section 106 of the NHPA. Simultaneous compliance with NEPA and Section 106 can reduce duplication of effort and minimize delays. Combine documentation to reduce paperwork as long as the requirements of both statutes are met (United States Marine Corps National Environmental Policy Act (NEPA) Manual 2011, 106).

3.3 Department of Air Force (DAF)

Air Force Instruction (AFI) 32-7061 (32 CFR 989—Environmental Impact Analysis Process [EIAP] 6 Jun 2007)

This document provides Air Force implementation of the procedural provisions of NEPA and CEQ regulations (US Air Force 2007). 32 CFR 989 implements the Air Force Environmental Impact Analysis Process and provides procedures for environmental impact analysis both within the United States and abroad. Because the authority for, and rules governing, each aspect of the EIAP differ depending on whether the action takes place in the United States or outside the United States, this part provides largely separate procedures for each type of action. The procedures in this part are essential to achieve and maintain compliance with NEPA and the CEQ regulations for implementing the procedural provisions of NEPA.

Part 989.11 Combining EIAP with other documentation

- (a) The Environmental Planning Function (EPF) combines environmental analysis with other related documentation when practicable (40 CFR 1506.4) following the procedures prescribed by the CEQ regulations and this part.

- (b) The EPF must integrate comprehensive planning (AFI 32-7062, Air Force Comprehensive Planning) with the requirements of the EIAP. Prior to making a decision to proceed, the EPF must analyze the environmental impacts that could result from implementation of a proposal identified in the comprehensive plan.

Part 989.36 Waivers

In order to deal with unusual circumstances and to allow growth in the EIAP process, SAF/IEE may grant waivers to those procedures contained in this part not required by NEPA or the CEQ Regulations. Such waivers shall not be used to limit compliance with NEPA or the CEQ Regulations but only to substitute other, more suitable procedures relative to the context of the particular action. Such waivers may also be

granted on occasion to allow experimentation in procedures in order to allow growth in the EIAP. This authority may not be delegated.

Air Education and Training Command (Supplement to AFI 32-7061)

989.11(a)(1) (Added)(AETC) The EPF should determine as early as possible if the proposed action or alternatives have the potential to cause effects on cultural or historic properties. If the potential to cause effects exists, the EPF should initiate consultation with state and (when applicable) tribal historic preservation officials as early as practicable to resolve preservation issues before completion of the EIAP. To the extent possible, complete the consultation and public notification requirements of the National Historic Preservation Act (NHPA) (Title 16 United States Code Section 470 [16 USC 470] *et seq*) during the EIAP. Compliance with the NHPA is mandatory before funds can be committed to execute a proposed action or alternative. See AFI 32-7065, *Cultural Resources Management Program*, for requirements and guidance.

989.35(c)(4)(ii) (Added)(AETC) *Interdisciplinary Process*. This includes items (1) selected members' specific qualifications (including criteria for selection of interdisciplinary planning team members, if available); (2) distribution lists or correspondence showing what offices received documents for interdisciplinary review and copies of all review comments or coordination returned by those offices; and (3) all directions and recommendations from responsible agency officials and staff (including e-mail correspondence, handwritten or typewritten notes, and facsimile sheets).

AFI 32-7065 Cultural Resources Management Program (1 June 1994; certified current 2 November 2009)

AFI 32-7065 establishes guidelines for protecting and managing cultural resources on lands managed by the Air Force (US Air Force 2004).

1.3. Policies

1.3.4. The installation Commander will develop and use the ICRMP to comply with mandated cultural resources management requirements.

1.3.6. Timeliness. The consultation process, where applicable, for all proposed projects affecting cultural resources on an installation will be conducted so as not to negatively impact the military mission, project schedule or costs. Such consultations will be initiated at the earliest practicable stage in the Environmental Impact Analysis Process, and unless extraordinary circumstances prevent it, will be completed prior to finalizing any NEPA documents (Categorical Exclusion (CATEX) determination, Environmental Assessment/Finding of No Significant Impact or Environmental Impact Statement).

3.3. Environmental Impact Analysis Process (EIAP): Proponents of Air Force actions will ensure that impacts of those proposed actions on cultural resources are fully considered in documents prepared pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §4321, et seq., NEPA's implementing regulations at 40 CFR §§1500-1508; AFI 32-7061, The Environmental Impact Analysis Process, as promulgated at 32 CFR §989; and the NHPA regulations at 36 CFR §800.8.

3.3.1. Incorporate *NHPA* Section 106 review into *NEPA* decision-making processes when purpose and need are being defined and a wide range of alternatives is open. Coordinate Section 106 compliance with the *NEPA* process per 36 CFR §800.8.

3.3.2. Substitute the *NEPA* process for separate *NHPA* Section 106 review of alternatives, by complying with 36 CFR §800.8(c):

3.3.2.1. Notify the SHPO/THPO and Council that the installation intends to substitute *NEPA* for the *NHPA* Section 106 process.

3.3.2.2. Invite interested parties and appropriate Indian Tribes to participate.

3.3.2.3. Phase the scope and timing of cultural resources identification and effects assessment to coincide with the consideration of alternatives.

3.3.2.4. Ensure that effects to cultural resources are fully assessed along with other environmental resources.

3.3.2.6. Develop alternatives and mitigation measures in consultation with the various parties, and describe them in the Environmental Assessment (EA) or Environmental Impact Statement (EIS).

4.10. Integrated Cultural Resources Management Plans (ICRMPs)

4.10.1.2. The development and preparation of the ICRMP may require analysis under NEPA if the ICRMP contains plans for new proposed actions that may impact the environment which have not been previously analyzed under NEPA. When that is the case, the draft ICRMP must be assessed in compliance with AFI 32-7061, *The Environmental Impact Analysis Process*, as promulgated at 32 CFR §989. When a NEPA analysis is required, for purposes of alternatives analysis in the NEPA document, ICRMP proponents shall develop, to the extent practicable, a range of potential alternative means of executing the ICRMP.

Air Force Policy Directive (AFPD) 32-70 (20 July 1994)

This AFPD requires that the Air Force comply with applicable federal, state, and local environmental laws and regulations, including NEPA. The implementing regulation for NEPA is AFI 32-7061, EIAP (see above). EO 11514, "Protection and Enhancement of Environmental Quality" (as

amended by EO 11991) sets policy directing the federal government in providing leadership in protecting and enhancing the environment.

4 Case Studies

4.1 Department of Army

Several reports of Army installation participation in the NEPA–NHPA process have been examined to some degree. The installations involved are the Rock Island Arsenal, Illinois; Fort Polk, Louisiana; and Fort Wainwright, Alaska.

4.1.1 Rock Island Arsenal, Illinois

4.1.1.1 Location

The Rock Island Arsenal (RIA) is located on the 948-acre Arsenal Island in the upper Mississippi River between the cities of Davenport, Iowa, and Rock Island, Illinois (Figure 3).



Figure 3. Rock Island Arsenal, showing structures (<http://www.ria.army.mil/>).

4.1.1.2 *Mission*

In 1816, Fort Armstrong was established on the island to establish a military presence to discourage encroachment on unorganized territory and to protect American settlers. In 1862, the RIA was established by an Act of Congress; it would eventually become the largest government-owned weapons manufacturing arsenal in the United States. In 1955, the Army established a command headquarters at Rock Island in addition to the Arsenal.

Rock Island Arsenal Garrison provides quality facilities and excellent base operations support and services to all installation tenants in the areas of law enforcement, crime prevention, security management, fire, safety, information management, facilities engineering, housing, maintenance of buildings and roads, and transportation. The Garrison maintains telecommunications facilities and common resources, as well as community amenities and necessary services for morale, welfare, and recreation. A high quality of living and working ensures equal opportunity for all civilian employees, war fighters, and family members.⁷

4.1.1.3 *Historic district*

The RIA's National Historic Landmark District is associated with the designs of Thomas J. Rodman, and its boundaries follow the island's shoreline. The buildings associated with the General Thomas J. Rodman Plan represent one of the largest military construction projects in the late nineteenth century. After assuming command of the RIA in 1865, Brevet Brigadier General Thomas J. Rodman devised a master plan for the installation that called for the construction of ten large manufacturing shops that were supplemented by a variety of ancillary buildings. Under General Rodman's plan, the arsenal's main industrial site was transferred to the high ground at the center of the island. Also, the north central shore of the island was set aside for a staff residential area. Surviving in highly intact condition, the buildings make a cohesive architectural statement that, in terms of both their scale and style, has no counterpart among government installations in the Midwest. In addition to their architectural importance,

⁷ Military Installations – U.S. Department of Defense. Accessed online: http://www.militaryinstallations.dod.mil/pls/psgprod/f?p=MI:CONTENT:0::::P4_INST_ID,P4_CONTENT_TITLE,P4_CONTENT_EKMT_ID,P4_CONTENT_DIRECTORY,P4_TAB:2305,Installation%20Overview,30,90,30,30,30,0,0,0,1,10

the Rodman Plan–Old Stone Buildings are the administrative and technological core of the RIA. ⁸

There are two zones within the historic district primarily comprised of the stone structures either designed or influenced by General Rodman. Zone A is the historic industrial zone which includes the Clock Tower Building (Building 205; Figure 4); the Old Gatehouse (Building 321) at the western tip of the island; Rodman Avenue, the main east-west thoroughfare that leads to the industrial core situated in the interior of the island; and the Rodman Plan–Old Stone Buildings, located in the central interior of RIA an example of which is shown in Figure 5.



Figure 4. Old Clock Tower (www.en.wikipedia.org).



Figure 5. Original Stone Shop D (now Building 62), circa 1875. (RIA National Register of Historic Places Nomination Form, June 1987).

⁸ Rock Island Arsenal National Register of Historic Places Nomination form accessed online: <http://pdfhost.focus.nps.gov/docs/NHLS/Text/69000057.pdf>

Zone B comprises the residential area on north central shore of the island. This area was delineated in General Rodman's plan for the arsenal complex (Rock Island Arsenal 1987).

Other historical sites on the island include the Confederate Cemetery, the Rock Island National Cemetery, and the site of the first bridge built across the Mississippi River.

4.1.1.4 Potential effects examined

In the records of the Illinois SHPO, documents were located that relate to several actions. Information on joint consideration of NEPA and NHPA at Rock Island Arsenal is based on several telephone discussions between Hal Balbach (ERDC-CERL) and Reita Kuster (RIA) in May and July, 2012.

Ms. Kuster discussed their numerous interactions with the Illinois Deputy SHPO (Anne Haaker) over historic preservation matters related to a series of ongoing remodeling and repairs taking place at the Arsenal (which is a historic district, as detailed above). Therefore, almost every proposed action requires such coordination as having potential to affect the historic fabric of the Arsenal. Examples are window replacement (Memorandum of Agreement [MOA] between RIA and SHPO, 2009 – see Appendix B); demolition of contributing buildings 53, 54, and 141 (MOA between RIA and SHPO, 2008—see Appendix B); and repainting of buildings, repair of masonry walls, and other O&M procedures. However, these actions are so small from the traditional environmental (biophysical) point of view that almost all are categorical exclusion (CATEX) actions; therefore stakeholder coordination for EA purposes under NEPA has never been seen as necessary. The Record of Environmental Consideration (REC) for the window replacement project describes the project, as shown in Figure 6.

<p style="text-align: center;"><u>RECORD OF ENVIRONMENTAL CONSIDERATION (REC)</u></p> <p>TO: IMNE-RIA-PWB</p> <p>FROM: IMNE-RIA-PWE</p> <p>PROJECT TITLE: Replace Windows on 1st Floor SW Bldg 60; Work Request 2009-11984</p> <p>BRIEF DESCRIPTION OF THE PROJECT: This project will replace the windows on the 1st floor SW side of Bldg 60. Existing wood windows are difficult to maintain, are failing, offer no anti-terrorism protection and are wasteful of energy. Project will replace with new windows that comply with anti-terrorism and environmental standards. Work includes abatement of lead-based paint. All waste streams shall be coordinated with Ms. Fran Pearson, IMNE-RIA-PWE, 2-7907.</p> <p>Prior to any work, this project shall be coordinated with Gary Heitman, Industrial Hygiene, 2-0806.</p>
<p>This project involves work on the exterior of an existing building, therefore, coordination with the Illinois State Historic Preservation Office (SHPO) has been completed.</p> <p>Anticipated date and/or duration of proposed action: (MM/DD/YY): 30 Sep 2009, 60 days</p> <p>Reason for using a record of environmental consideration :</p> <p>a. Per 32 CFR Part 651.29(a)(1, 2, and 3): The action has not been segmented, no exceptional circumstances exist (b) (1-14), and one or more of the Categorical Exclusions (CX's) encompass the proposed action.</p> <p>b. Per 32 CFR Part 651, Appendix B, Section II, the following CX applies which states: (g) Repair and maintenance activities (1) Routine repair and maintenance of buildings, airfields, grounds, equipment, and other facilities to include but not limited to the removal and disposal of asbestos-containing material and lead-based paint IAW applicable regulations; removal of dead, diseased or damaged trees; and repair of roofs, doors, windows or fixtures or work on historic structures.</p>

Figure 6. Record of Environmental Consideration for window replacement project, Building 60 (from RIA Environmental Office records).

While the proposed demolition of Buildings 54 and 141 was larger in scope in some ways, the determination was made that the demolition of the two small, deteriorated buildings was acceptable after recordation actions as described in the MOA in Appendix B. The REC for the Building 54 project describes the action and concerns, as shown in Figure 7.

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

TO: IMNE-RIA-PWM

FROM: IMNE-RIA-PWE

PROJECT TITLE: Demolition of Building 54; PR 1984-0135

BRIEF DESCRIPTION OF THE PROJECT: The project consists of complete demolition and removal of Building 54. Building 54 is a one story, inactive diesel oil storage facility that was constructed in 1900. The building extends approximately 10 feet below the surrounding ground surface and is 2,215 square feet in size. Building 54 construction includes a concrete floor, brick walls, and a corrugated metal framed roof. The building is in very poor condition with significant deterioration of the exterior brick. The building is under utilized and has been declared excess. Disposal of this facility would not affect the productivity capacity of the Installation and is not needed for the current mission at Rock Island Arsenal. Work includes abatement of asbestos-containing material and or lead-based paint. All waste streams shall be coordinated with Ms. Fran Pearson, IMNE-RIA-PWE, 2-7907. This project will include asbestos abatement either between the Illinois Department of Public Health (IDPH) reporting limit of 3 – 260 lineal feet or possibly exceeding the Illinois Environmental Protection Agency (IEPA) reporting limit of 260 lineal feet, therefore, a State of Illinois Asbestos Abatement Project notification form must be prepared and submitted to the Agency at least 10 working days prior to commencement of any work. A copy of said form shall also be submitted to Kim Johnson, IMNE-RIA-PWB, prior to any work.

Although Building 54 is not located within the RIA National Historic Landmark boundaries, it has been determined to be a contributing resource to the RIA Historic District. Coordination with the Illinois State Historic Preservation Office (SHPO) has been completed and concurrence on proceeding with the demolition has been provided.

Anticipated date and/or duration of proposed action: (MM/DD/YY): 12 Nov 2008, 60 days

Reason for using a record of environmental consideration :

- a. Per 32 CFR Part 651.29(a)(1, 2, and 3): The action has not been segmented, no exceptional circumstances exist (b) (1-14), and one or more of the Categorical Exclusions (CX's) encompass the proposed action.
- b. Per 32 CFR Part 651, Appendix B, Section II, the following CX applies which states: (c) Construction and demolition: (2) Demolition of non-historic buildings, structures, or other improvements and disposal of debris therefrom, or removal of a part thereof for disposal, IAW

Figure 7. Record of Environmental Consideration for Building 54 demolition (from RIA Environmental Office records).

All of these actions, however, were clearly “undertakings” in the context of Section 106. They may be exemplary of the situation where the required coordination is highly asymmetric on the NHPA side. Across the three Illinois installations which were the primary focus of this study, we have found this to be the case more than once. There are situations, however, where the reverse is more common. One example is the EA covering improvement of an assault landing area at Ft. Hood, Texas, where examina-

tion of the physical and biological aspects required a longer EA, and where SHPO coordination took place both prior to and within the NEPA context.

4.1.1.5 Process implementation

In the context of the RIA—with multiple historic districts of concern and a 150-year historical record, it is not surprising that the combination of aging infrastructure and its clear historic significance would lead to deep concern for historic preservation issues. In the examples examined, care was taken to review the “traditional” NEPA-generated consequences in the appropriate regulatory context. They were found to be of minor environmental concern OR were eligible for a CATEX. It is our conclusion that the documentation prepared for NEPA purposes was then used to develop the corresponding MOA in conjunction with the SHPO.

4.1.2 Fort Wainwright, Alaska

4.1.2.1 Location

Fort Wainwright is located east of Fairbanks, Alaska. The Army first established an Army Air Corps base called Ladd Field in this location. In 1961, the facilities were transferred from the Air Force back to the Army and were redesignated as Fort Wainwright to honor World War II (WWII) General Jonathan M. Wainwright. Currently, Fort Wainwright’s main post is 4,473 acres with over 900,000 acres of additional ranges and training lands.

4.1.2.2 Mission

Fort Wainwright is home to “America’s Arctic Warriors,” offering training in temperatures ranging from 90 degrees in the summer to 65 degrees below zero in the winter. The major unit at Fort Wainwright is the 1st Brigade, 6th Infantry Division (Light). Fort Wainwright is also home to the 172nd Infantry Brigade (separate), 4/11 Field Artillery Regiment, 203rd Personnel Services Battalion, Medical Activity-Alaska, and Dental Activity-Alaska.

During WWII, Ladd Field served as a hub for fighters and bombers defending the Aleutian Islands against the Japanese, and as a hub for the

Lend-Lease⁹ program, in which the United States supplied other Allied nations with materials between 1941 and 1945. By 1943, the Lend-Lease program was a major priority at Ladd Field, where fighters and bombers were transferred to the Soviet Union. During this program, nearly 8,000 aircraft were shuttled to the Soviet Union, and these aircraft were prepared at Ladd Field for the flight across the Bering Straits to Siberia. However, at the outset of the Cold War, the United States' relationship with the Soviet Union drastically changed, and Alaska was considered the frontline of defense against a potential Russian invasion. With the separation of the Air Force as a distinct military branch, Ladd Army Airfield was renamed Ladd Air Force Base and served as a highly strategic location in the defense of the United States.

4.1.2.3 *Historic district*

Ladd Field was established in 1938 as a cold weather test station where the interior of Alaska provided the consistently cold temperatures required for extensive materials testing. Major construction of facilities began in 1941 and continued during the United States' buildup for WWII. This initial area of construction was located several miles from Fairbanks and consisted of an airfield, hangars, housing, and support buildings.

The area that was developed as Ladd Field was declared a National Historic Landmark in 1985. In this NHL district, there are 34 contributing buildings and three contributing structures as well as the airfield, the primary pattern of streets and roads, and the North Post Utilidor. There are also 18 noncontributing buildings in the area, and several hundred buildings constructed outside the boundaries of Ladd Field that are part of Fort Wainwright (Figure 8). The historic district includes the airfield; the horseshoe-shaped command, industrial, and flight service facilities (known as North Post); and perimeter buildings on the south side of the airfield, including hangars and maintenance shops, warehouses, and an ammunition storage facility (igloo).

⁹ Formally titled "An Act to Further Promote the Defense of the United States" (PL 77-11, enacted March 11, 1941).

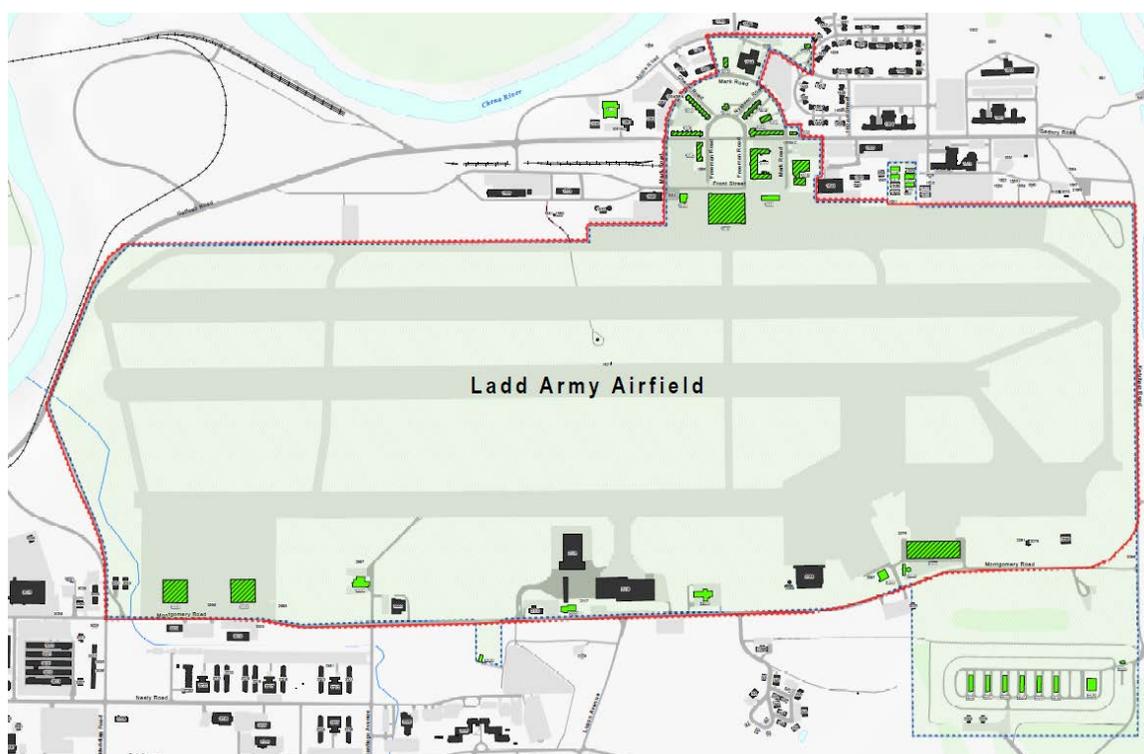


Figure 8. Fort Wainwright cantonment showing the boundary of the Ladd Army Airfield NHL (Fort Wainwright Cultural Resources).

4.1.2.4 Potential effects examined

In this report, Fort Wainwright provides two examples of the integration of NEPA and the NHPA requirements for investigation. In 2009, Fort Wainwright's Aviation Stationing EIS and the Section 106 PA were finalized while the process for the disposition of Hangars 2 and 3 is ongoing. Figure 11 outlines the combined EIS/Section 106 schedule.

The NEPA and NHPA integration for Aviation Stationing at Fort Wainwright was initiated by a mandate to station and train a new aviation unit in Alaska by reorganizing and supplementing the existing Army aviation assets already in the state. At Fort Wainwright, a new aviation unit meant that temporary aviation units would be permanent and would require upgrades to personnel, equipment, and facilities. In total, the new changes would bring 1,200 soldiers, 72 helicopters, and 55 acres of new construction to the Fort.

The proposed construction created the potential for significant impact to the environment, and the majority of new construction was proposed within the boundaries of the Ladd Field NHL. In addition to concerns over

how the new construction would affect the historic character of this NHL, a major concern was the effects of Aviation Stationing on Hangars 2 and 3 just west of the proposed construction. The adverse effects of the proposals were determined to be that: (1) the new infill construction would not be similar in scale or massing to the contributing historic resources, (2) a proposed new hangar would impede the viewshed between Hangars 2 and 3 and the North Post, and (3) Hangars 2 and 3 would undergo potential change in use.

In response to the changes brought by Aviation Stationing, Fort Wainwright managers wanted to streamline the process by employing the NEPA structure to comply with NHPA consultation requirements rather than conducting a separate analysis or to use the in-lieu-of standards outlined in 36 CFR 800.8; at the same time, they wanted to accomplish this without alienating any of the consulting parties. To use the NEPA structure, integrated schedules were created that applied NEPA standard operating procedures (SOPs) to cultural resources staffing actions. By doing this, information was supplied to the Section 106 consulting parties as the NEPA process progressed. Numerous issue-focused meetings were held that included multiple stakeholders, such as the Alaska SHPO, NPS, ACHP, Tanana Yukon Historical Society, and the Fairbanks/North Star Borough Historical Preservation Commission.

Through the integrated NEPA and NHPA approach, Fort Wainwright was able to effectively address any adverse effects, including the complexities of Hangars 2 and 3. The three main effects were addressed by determining that: (1) the infill construction in the NHL that was not similar to the historic properties was addressed by involving the consulting parties in the drafting of RFP language and in the source selection process for new construction inside the NHL and historic district; (2) the proposed new hangar that would impede the view between Hangars 2 and 3 and North Post would be mitigated by adding interpretive projects that included a viewing platform that included information on Fort Wainwright's history; and (3) the potential change in use of Hangars 2 and 3 would be analyzed separately in a separate reuse study.

4.1.2.5 Process implementation

The outcome of the integrated NEPA and NHPA processes for Aviation Stationing were successful, with mitigation measures established for the adverse effects and wrapped up into a Record of Decision (ROD), while

contributing to the overall efficiency of the project. The process also improved relationships between the Army and the local, state, and federal historic preservation organizations. With the success of the process, Fort Wainwright managers learned to integrate the NEPA and NHPA processes early in the development of the proposed action/undertaking; to actively participate in both processes throughout the baseline studies, significance threshold development, public meetings, consultations, document reviews, and the development of Scopes of Work; and to build as much flexibility into the schedule as possible.

Integration of the NEPA and NHPA requirements was again used by Fort Wainwright managers with the continuing analysis of the proposed reuse of Hangars 2 and 3. In the original plan for Aviation Stationing, Hangars 2 and 3 were proposed for demolition because they no longer met the mission requirements of Fort Wainwright. However, through further analysis and with the consultation of the stakeholders, demolishing the hangars was removed from the proposal.

The hangars were constructed as semi-permanent structures in 1943, and both hangars featured barrel roofs constructed of timber trusses and framing members. At the time of evaluation, the building's wooden structures were deteriorated with outdated electrical, heating, and fire protection systems. Figure 9 shows Hangar 2 and Figure 10 shows Hangar 3.



Figure 9. Hangar 2 at Fort Wainwright (Fort Wainwright Cultural Resources).



Figure 10. Hangar 3 at Fort Wainwright (Fort Wainwright Cultural Resources).

The evaluation process was complicated in February 2011, when a fire broke out in Hangar 2 that rendered the structure unsafe for occupancy. With the damage to Hangar 2 and the reevaluation of both hangars still

under consideration, Fort Wainwright needed to determine alternative uses for the structures or come to a final decision on their status. To make these decisions, actions would need to involve: life, health, and safety standards; compatible airfield land-use definitions; facility management objectives; cultural resources management requirements; and funding considerations.

The potential scenarios for the hangars included adaptively reusing both, demolishing both structures, converting one to another use and demolishing the other, indefinite mothballing, or maintaining the current condition of no action. However, action was needed to determine and implement a disposition on Hangars 2 and 3 that would resolve the life, health, and safety concerns of the structures; address the financial concerns; consider land use requirements; and ensure statutory compliance. For alternative actions on the Hangars to be considered they needed to meet four criteria:

1. the action must directly address the disposition of Hangars 2 and 3;
2. the action must be compatible with the current and future military mission at Fort Wainwright;
3. the action must not be prohibitively expensive; and
4. the action must have a reasonably foreseeable funding source, or a mechanism for obtaining applicable and timely funding.

With these criteria in mind, the alternative actions that were considered for Hangars 2 and 3 were: demolition, rehabilitation/adaptive reuse, removal and reconstruction, closed layaway, transfer or ownership to non-Army entities, or no action for either or both hangars. The reuse options that were proposed included maintenance, simulator training, physical fitness center, arctic readiness center, general-purpose warm storage, a youth center, a museum, or a roller rink. During this process, it was determined that the alternatives to be carried forward for full analysis would be the demolition of Hangars 2 and 3 and their supporting infrastructure (which was the preferred alternative) or to take no action and maintain the status quo. While the disposition of Hangars 2 and 3 is still ongoing as of May 2013, the draft MOA includes engagement of the public through lectures and publications of the Army's historic preservation efforts at Fort Wainwright; the reevaluation of the Ladd Field NHL; and the refocus of historic preservation efforts on effective stewardship through more effective management of the remaining historic resources that comprise the Ladd Field NHL.

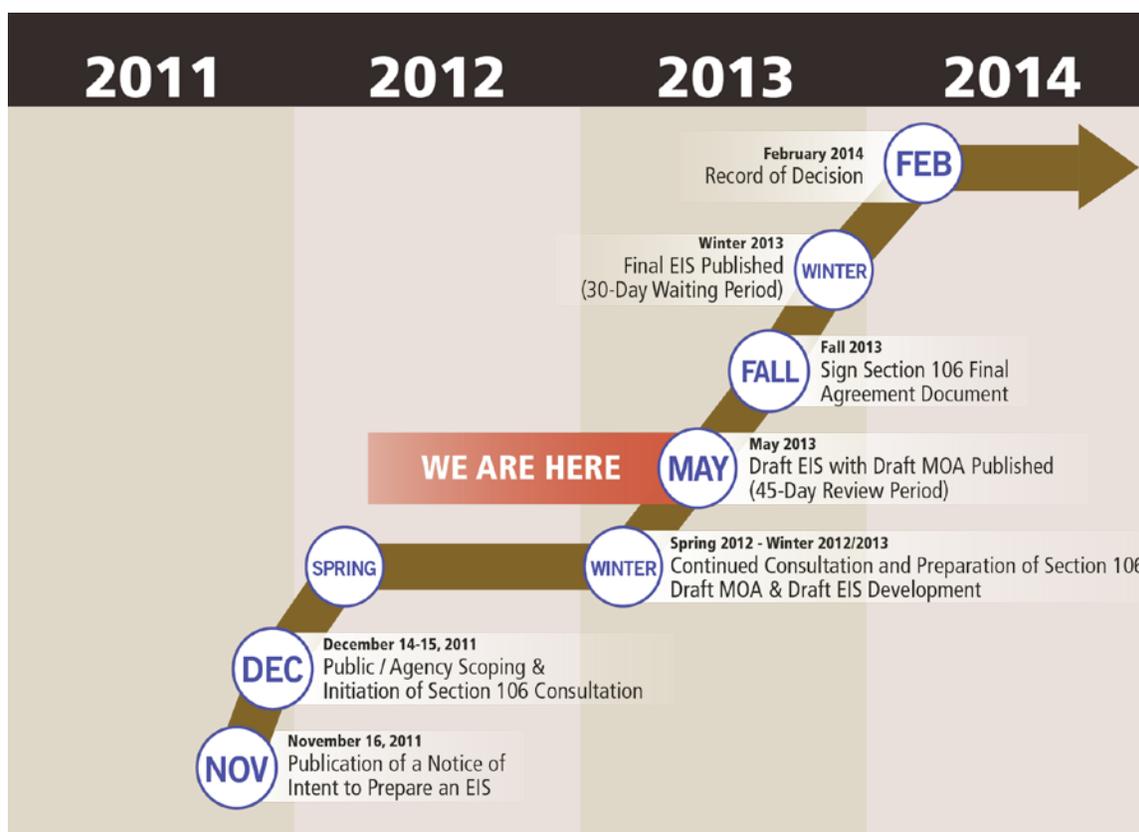


Figure 11. Fort Wainwright's combined EIS/Section 106 schedule for the disposition of Hangars 2 and 3 (Fort Wainwright Cultural Resources).

4.1.3 Fort Polk, Louisiana

4.1.3.1 Location

Fort Polk is located in Vernon Parish, seven miles from Leesville, Louisiana. The city of Leesville (population 6700) is situated between Shreveport and Lake Charles. It is 63 miles to Lake Charles and 50 miles to Alexandria where the nearest municipal airport is located. Fort Polk is the second largest employer in the state of Louisiana and thus, has a huge economic impact on the entire state. The installation occupies 198,000 acres, including about 100,000 acres owned in fee by the US Army, with the remaining acreage belonging to the United States Forest Service as part of the Kisatchie National Forest. The fort is under the command of the Joint Readiness Training Center (JRTC) of the 4th Brigade. It is the only training center in the Army which both trains and deploys units for combat missions. Other units included at Fort Polk include the 10th Mountain Division, 115th Combat Support Hospital, 162nd Infantry Brigade, 1st Maneuver Enhancement Brigade, and Army Garrison and Bayne-Jones Army

Community Hospital. There are approximately 9,300 active duty military personnel at Fort Polk and about 5,400 civilian employees.

4.1.3.2 *Mission*

The JRTC, one of the Defense Department's premier training facilities, relocated to Fort Polk in July 1993. Fort Polk is unique in all the Army because it is the only Combat Training Center (CTC) that also has the mission to train and deploy combat and combat support units. The JRTC is the light infantry equivalent of the Army's National Training Center, located at Fort Irwin, California. It hosts light infantry and special operations forces from all components for rotations stretching throughout the year. The 1st Brigade of the 509th Infantry Regiment serves as the opposing force to the combat and special operations units rotating through training exercises here. Fort Polk has the current dual mission as the JRTC and home of the 2nd ACR and Warrior Brigade. More than a dozen other units have been reassigned here from Europe and other U.S. locations as the nation enhances and realigns its contingency force within its own borders.

4.1.3.3 *Historic district*

Fort Polk has no recognized historic district. Having been created in 1940 as a part of the buildup of facilities in preparation for WWII, the Army history of the installation itself is not extensive. One book, "A Soldier's Place in History," (Kane and Keaton 2004) describes the military history at Fort Polk from the Louisiana Maneuvers in 1940 through Desert Storm in 1991. Efforts have also been made to recognize and acknowledge the history of the settlers whose properties were taken for use by the DoD. A study titled "A Good Home for a Poor Man: Fort Polk and Vernon Parish, 1800–1940," (Smith 1999), was funded by the DoD Legacy Program. The study brought together many records and photographs of the previous landowners and their families. An ongoing repository of heritage information is maintained by the cultural resources staff at Fort Polk.

Fort Polk is rich in prehistoric and historic cultural resources.¹⁰ Level I archaeological site survey work has been conducted since 1972 to support the military training, construction, and timber management programs. Over 168,000 acres have been surveyed, and 3,332 sites have been recorded. Of the total sites, 18 are identified as historic cemeteries, and 3,314 are identi-

¹⁰ http://www.jrtc-polk.army.mil/environmental_compliance/Cultural_Resources.html

fied as archeological sites. These archeological sites include: 2,944 sites with prehistoric components, 185 sites with historic components, and 203 sites with both. Level II site testing, was conducted on 600 sites that were found to be potentially eligible for the NRHP. As a result of the Level II testing, 129 sites were determined eligible for the NRHP and are protected in situ with mission restrictions. In addition, a total of 256 archeological sites are considered environmentally sensitive areas and are posted to avoid adverse impact to the site areas.

Fort Polk maintains an archeological collection for the study and research of the people who once occupied the area that now supports the JRTC and Fort Polk. The Fort Polk Archeological Collection houses archeological artifacts and records from over 30 years of archeological work, and the collection is inventoried and curated in accordance with 36 CFR 79, "Curation of Federally-Owned and Administered. Archeological Collections." The collection is considered to have one of the most significant collections for Woodland Period research. The archeological collection has over 1,218 cubic feet of artifacts and associated records, 90 percent of which consist of prehistoric artifacts. These artifacts come from various different prehistoric time periods and cannot be directly linked to a specific tribal group of today. They are only linked to a specific cultural life-way of populations or groups who existed through time in specific geographical areas.

4.1.3.4 Potential effects examined

Fort Polk staff prepared combined EIS and NHPA Section 106 documentation for a proposed plan for future purchases of up to 100,000 acres of additional lands to better provide readiness training. This 2010 action involved a full EIS with appendices relating to operating and monitoring planning in coordination with the USFS. Coordination with 17 Native American tribes was required under NHPA, and the effects of some alternatives on archeological and cultural resources were identified as potentially important. A briefing prepared in August 2011¹¹ for public presentation described the processes involved. In this presentation, the Fort Polk preparers' conclusions were stated, as shown in Table 1 and Table 2:

¹¹ IMSE-POL-PWE/Conservation (337) 531-7417 / wayne.fariss@us.army.mil

Table 1. Fort Polk's conclusions regarding the benefits of combining NEPA and Section 106.

Benefits of Combining NEPA & Section 106
Accelerated timeline due to consolidation of resources
Allows for scoping at the same time
Allows for proponent involvement in one rather than two processes
Makes your environmental support team work as one unit with the proponents
If necessary to evaluate to higher headquarters (to include AEC), allows headquarter review of future requirements' cost or mitigation at one time
Allows for siting of projects in a workable area (i.e., SHPO surveys)
More comprehensive outreach and consultation with the public and stakeholders
Fostering better relationships with consulting parties and the public

Table 2. Fort Polk's challenges combining NEPA and Section 106.

Challenges Encountered
Project development and early consultation
Make sure alternatives are viable not just throw away (because now you are going to be consulting on them)
Do not lose sight of the mission
Coordination of the effort (i.e., cultural resources staff generally lean towards their resources whereas coordinating staff usually leans towards their field of expertise)
Coordination of outreach/public involvement events
Using the correct law-specific language in the scoping correspondences, NOI, NOA, document, and decision document/PA
If you have a contentious consultation it could impact your project timeline

4.1.3.5 Process implementation

4.1.3.5.1 Local SOP development

As a follow-on to their experience involving the land transfer documentation, and in conjunction with the study reported here, the Fort Polk staff went further. The regularization of the merger of processes for NEPA and Section 106 of the NHPA was the objective of a set of local SOPs developed

June-August 2012 by the Conservation Branch at Fort Polk. Those SOPs were provided to the study authors for inclusion in this report (See Appendix C).

4.1.3.5.2 Evaluation

This case illustrates one of the few examples encountered where a conscious effort was made to combine the NEPA and NHPA requirements in one process. The potential effects under both acts were significant, and this was recognized at the inception of the study. We note that this is a single, local approach to the issues involved, and it is not necessarily recommended universally to all facilities. It is, however, an example of a branch within the Army installation structure which has become involved enough to clearly see that there are benefits to be found in the integration of these two processes. However, we found no other examples which appear to have extended their interest in combining procedures to such a great degree.

4.2 Department of Navy

4.2.1 Naval Station Great Lakes, Illinois

4.2.1.1 Location

Naval Station Great Lakes (NSGL) is the location of the Navy's only boot camp and the largest training station in the Navy. It is located north of Chicago on 1,628 acres in Lake County, Illinois.

4.2.1.2 Mission

The mission at NSGL is training sailors for the Naval Fleet. In 1996, the Recruit Training Command became the Navy's only basic training facility when the Base Realignment and Closure (BRAC) of 1993 action closed the Naval Training Center in San Diego, California, and the Naval Training Center in Orlando, Florida. Commands at NSGL include the Recruit Training Command, Training Support Center, and Navy Recruiting District Chicago.

4.2.1.3 Historic district

The NSGL's original 39 buildings were built between 1905 and 1911 by Chicago architect Jarvis Hunt. These buildings comprise the NSGL histor-

ic district which is about 193 acres in area. The original core buildings were constructed of red brick in either the Classical Revival or Federal Revival styles (Figure 12). The historic district contains 43 buildings, 14 structures, and six objects. The historic district was added to the NRHP on 15 September 1986.



Figure 12. Building 1 at NSGL is a contributing structure (NSGL ICRMP).

4.2.1.4 Potential effects examined

Integrated Cultural Resources Management Plan Naval Station Great Lakes (14 February 2011).

The biophysical and cultural resources of greatest concern at NSGL were examined most recently in the July 2010 document *Environmental Assessment for the Proposed Repair of Sampson Street Bridge at Naval Station Great Lakes, Lake County, Illinois* (US Navy 2010). This document analyzed the potential environmental impacts resulting from the proposed repair or replacement of the Sampson Street Bridge at NSGL. The Sampson Street Bridge is a contributing resource to the Great Lakes Naval Station Historic District.

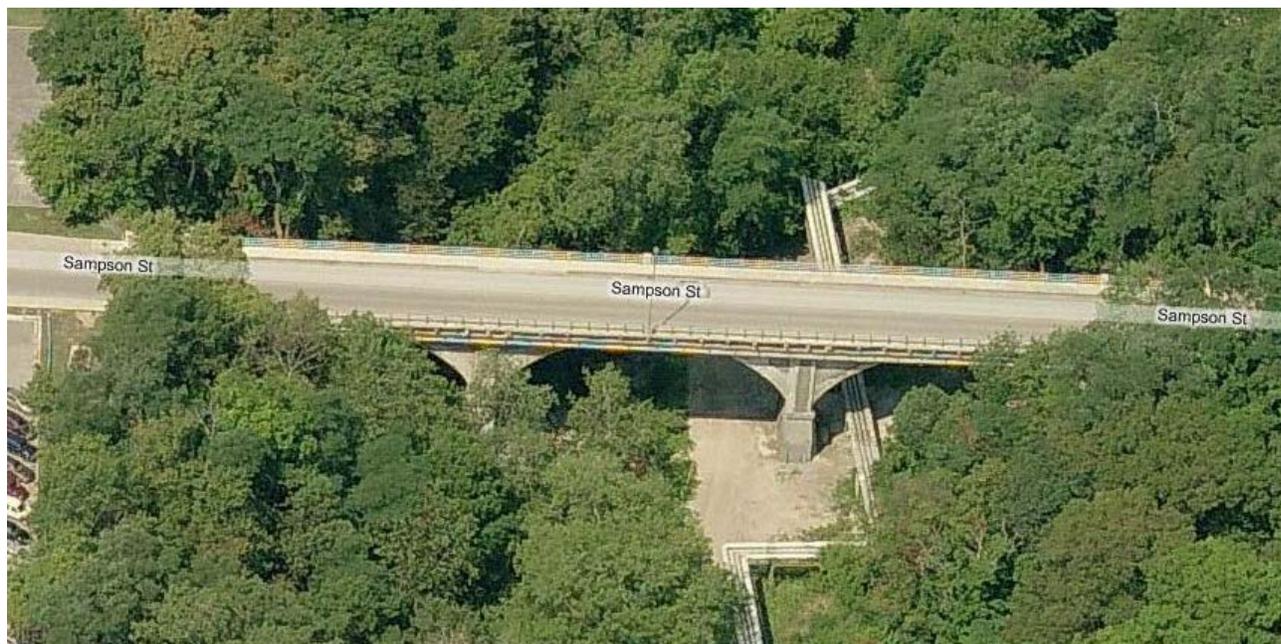


Figure 13. Sampson Street Bridge at NSGL—subject of environmental assessment examined for this report (US Navy 2010).

There are three reasonable alternatives presented in the document: Alternative One (no action), the Preferred Alternative Two (90% repair-by-replacement with historically-compatible design), and Alternative Three (100% replacement with historically-compatible design). These three alternatives provide the decision maker with a reasonable range of alternatives from which to choose. Table 3 identifies positive and negative impacts for each alternative being analyzed. Alternative two was selected as the most reasonable.

Table 3. Analysis of alternatives for Sampson Street Bridge project.

	Alternative 1. No Action	Alternative 2. Preferred Alternative – Repair by Replacement with Historically Compatible Design Features	Alternative 3. 100 Percent Replacement with Historically Compatible Design Features
Natural Environment	No significant impacts	Short-term adverse impact	Short-term adverse impact
Topography	No significant impacts	Temporary adverse impacts during repair	Temporary adverse impacts during repair
Geology and Soils	No significant impacts	Temporary adverse soil impacts during repair	Temporary adverse soil impacts during repair
Air Resources	No significant impacts	Temporary adverse emission increases during repair	Temporary adverse emission increases during repair
Noise Environment	No significant impacts	Temporary adverse increases during repair	Temporary adverse increases during repair
Biological Environment	No significant impacts	Short-term adverse impact	Short-term adverse impact
Vegetation	No significant impacts	Temporary adverse impacts during repair	Temporary adverse impacts during repair
Wildlife	No significant impacts	Temporary adverse impacts during repair	Temporary adverse impacts during repair
Threatened & Endangered Species	No significant impacts	No significant impacts	No significant impacts
Wetlands	No significant impacts	Potential short-term adverse impacts due to repair activity. Potential for turbidity, increased contaminant levels in water	Potential short-term adverse impacts due to repair activity. Potential for turbidity, increased contaminant levels in water
Water Resources	No significant impacts	Short-term adverse impact	Short-term adverse impact
Surface Water	No significant impacts	Potentially adverse impact during repair	Potentially adverse impact during repair
100-Year Floodplain	No significant impacts	No significant impacts	No significant impacts
Process Wastewater	No significant impacts	Negligible amounts during repair	Negligible amounts during repair
Groundwater	No significant impacts	No significant impacts	No significant impacts
Manmade Environment	Long-term adverse impacts	Positive impact	Positive impact
Facilities	Long-term adverse impacts due to aging structure	Long-term positive impact	Long-term positive impact
Hazardous Materials & Waste	No significant impacts	No significant impacts	No Significant Impacts
Asbestos	No significant impacts	No significant impacts	No significant impacts
Lead Based Paint	No significant impacts	No significant impacts	No significant impacts

Table 3 (cont'd). Analysis of alternatives for Sampson Street Bridge project.

	Alternative 1. No Action	Alternative 2. Preferred Alternative – Repair by Replacement with Historically Compatible Design Features	Alternative 3. 100 Percent Replacement with Historically Compatible Design Features
Socioeconomic Environment	Long-term adverse impacts	Long-term positive impacts	Long-term positive impact
Community Setting & Land Use	No significant impacts	No significant impacts	No significant impacts
Zoning	No significant impacts	No significant impacts	No significant impacts
Population & Demographics	No significant impacts	No significant impacts	No significant impacts
Economic Activity	No significant impacts	Temporary positive increase due to repair	Temporary positive increase due to repair
Environmental Justice	No significant impacts	No significant impacts	No significant impacts
Safety	Long-term adverse impacts – safety and emergency vehicle restrictions	Long-term positive impact – emergency response vehicle access	Long-term positive impact – emergency response vehicle access
Public Services	Long-term adverse impacts	Long-term positive impact – safety and emergency vehicles access	Long-term positive impact – safety and emergency vehicles access
Potable Water Supply	No significant impacts	No significant impacts	No significant impacts
Sanitary Sewer	No significant impacts	No significant impacts	No significant impacts
Stormwater	No significant impacts	No significant impacts	No significant impacts
Solid Waste	No significant impacts	No significant impacts - short-term increase due to repair	No significant impacts - short-term increase due to repair
Transportation & Navigation	Long-term adverse impact	Long-term positive impact to safety and emergency vehicle response times. Short-term adverse impact from bridge closure.	Long-term positive impact to safety and emergency vehicle response times. Short-term adverse impact from bridge closure.
Recreation	No significant impacts	No significant impacts	No significant impacts
Cultural Resources	No significant impacts	Adverse effect on a cultural resource – mitigated by MOA between Navy and SHPO	Adverse effect on a cultural resource – mitigated by MOA between Navy and SHPO

4.2.1.4.1 Interagency coordination

The following federal, state, and local governments and agencies were consulted prior to and during the preparation of the EA. Most agencies and government entities were either contacted in writing, by telephone, or vis-

ited during the course of the study. The Illinois-based agencies and government entities contacted were:

- Natural Resources Conservation Service (Grayslake)
- U.S. Army Corps of Engineers, Chicago District (Chicago)
- U.S. Environmental Protection Agency, Region 5 (Chicago)
- U.S. Fish and Wildlife Service (Barrington)
- United States Coast Guard (Burr Ridge)
- Federal Bureau of Investigation (North Chicago)
- Illinois Department of Natural Resources (Springfield)
- Illinois Department of Natural Resources (Bartlett)
- Illinois Historic Preservation Agency (Springfield)
- Illinois Environmental Protection Agency (Springfield)
- City of North Chicago, Community Development and Planning (North Chicago)
- City of North Chicago – Water Plant (North Chicago)
- Lake County Stormwater Management Commission (Libertyville)
- City of Lake Forest (Lake Forest)
- Village of Lake Bluff

All agencies contacted during the process, the comments received, and the responses to comments received were included in an appendix. Agency comments on the draft EA were considered prior to a decision being made as to whether to sign the Finding of No Significant Impact (FONSI).

4.2.1.4.2 Native American Tribal Consultation

EO 13175, “Consultation and Coordination with Indian Tribal Governments” (Clinton 2000) directs federal agencies to establish regular and meaningful relationships with affiliated federally-recognized Native American tribal governments on a government-to-government basis. Additionally, Section 106 of the NHPA requires consultation with tribes whose interests might be impacted by activities on federally administered lands. The four entities which were identified as potentially concerned with the NSGL action were the Citizen Potawatomi Nation of Shawnee, Oklahoma; Forest County Potawatomi Community of Crandon, Wisconsin; Hannahville Indian Community of Wilson, Michigan; and Prairie Band of Potawatomi Nation of Mayetta, Kansas. No comments were received from these offices.

4.2.1.4.3 Public involvement

A Notice of Availability (NOA) for the Draft EA and Draft FONSI was published in the *Great Lakes Bulletin* on June 3, 2010.

4.2.1.5 Process implementation

No conscious attempt was made in this case to merge NEPA and NHPA processes. Both processes required measureable effort, although it would appear that the NEPA concerns were of greater potential importance. However, the processing of this assessment as a matter for public comment did not, with one exception, call for coordination beyond the opportunity to comment described in paragraph 4.2.1.4.3 above. This exception concerned the coordination of a MOA with the Illinois SHPO on the mitigation activities required under Section 800 of NEPA. The historic significance of the proposed changes to the appearance of the bridge, a contributing element in the historic district, required extensive planning and coordination with the SHPO. A copy of this MOA was included as an appendix to the EA, and it is incorporated in Appendix B of this report. The NEPA concerns appear to have been thoroughly examined in an appropriate context, and the MOA published as evidence that coordination within NHPA had also been executed in a timely fashion.

4.3 Department of Air Force

Scott Air Force Base in Belleville, Illinois, was the original Illinois-based case study proposed to be included in this report. Interestingly, at the time of the project proposal, the base was preparing and coordinating a multi-year, multi-project development plan, the Installation Development Environmental Assessment (IDEA). The IDEA provided detailed analysis of 15 projects proposed to be implemented 2013–2020:

- 3 demolition projects
- 6 construction projects
- 3 infrastructure improvement projects
- 3 natural infrastructure management projects

These proposals potentially affected both biophysical and cultural resources in numerous locations, and a comprehensive EA was completed, with a FONSI signed in September 2012. The degree to which the requirements of NEPA and NHPA were combined in practice may be seen in this 340 page document (US Air Force 2012). We recognize that this IDEA

may be somewhat greater in scope than several of the other EAs reviewed here.

4.3.1 Scott Air Force Base, Illinois

4.3.1.1 Location

Scott AFB is located in southwestern Illinois, near the towns of Belleville and Mascoutah in St. Clair County. The area is considered part of the Metro-East portion of the greater St. Louis area.

4.3.1.2 Mission

The primary mission of Scott AFB is global mobility. The US Transportation Command (TRANSCOM) is a DoD-level command which controls all logistics of the US military transport in air, over land, and across seas. Another major Air Force command, the Air Mobility Command, is also located on the base. It is responsible for providing Air Force transport throughout the world including aeromedical evacuation capabilities, flight operational support airlift in the C-21 (small transport jets), and the conduct of air refueling missions (Figure 14).¹²



Figure 14. Flight operations supported at Scott AFB (http://en.wikipedia.org/wiki/Scott_AFB).

4.3.1.3 Historic district and other cultural resources

Scott AFB has an 81-acre historic district composed of 102 contributing and 10 non-contributing buildings and structures, and the district is listed

¹² Military Installations – U.S. Department of Defense accessed online:
http://www.militaryinstallations.dod.mil/pls/psgprod/f?p=MI:CONTENT:0::::P4_INST_ID,P4_CONTENT_TITLE,P4_CONTENT_EKMT_ID,P4_CONTENT_DIRECTORY,P4_TAB:2335,Installation%20Overview,30.90.30.30.0.0.0.0,,

on the NRHP. In addition to the historic district, multiple archaeological areas have been documented on Scott AFB. These areas total approximately 375 acres but have been determined as ineligible for the NRHP. Additional constraints are the two pioneer cemeteries on the installation; however, they are not considered archaeological sites and are not eligible for listing on the NRHP (Scott AFB 2012). Activities potentially affecting cultural resources must be coordinated with the Facilities Utilization Board (FUB) and the 375th Civil Engineering Squad/Asset Management Flight (375 CES/CEA) Conservation Manager who will coordinate with the SHPO.

4.3.1.4 *Potential effects examined*

The resources of concern from both cultural and biophysical perspectives were described most recently in September 2012 document, which assesses the effects of 15 proposed projects at Scott AFB (USAF 2012). The following topics (with the area involved and potentially affected) are identified as items of potential concern in the document (pages 2-2 to 2-7):

- Noise Zones (522 acres)
- Airfield Infrastructure, Clear Zones, and Imaginary Surfaces (1,209 acres)
- Munitions and Other Safety Criteria (300 acres)
- Environmental Restoration Program Sites (189 acres)
- Wetlands (378 acres)
- 100-Year Floodplain (464 acres)
- Threatened and Endangered Species and Associated Habitats
- Cultural Resources, Historic Buildings, and Archaeological Sites (456 acres)
- Anti-Terrorism/Force Protection (AT/FP) Setback Requirements

Of the 15 projects evaluated, four were identified as having potential cultural resources impacts. All four involved the proposed demolition of buildings no longer needed for mission purposes (Buildings 3270, 3272, 3273, and 3275). Each of these potential impacts from the demolitions is included in a Programmatic Memorandum of Agreement (MOA) among the DoD, the ACHP, and the National Conference of State Historic Preservation Officers Concerning the Demolition of WWII Temporary

Buildings. However, we noted that none of these proposed demolitions was selected for action in the FONSI signed in September 2012.

4.3.1.4.1 Interagency coordination

Through the Intergovernmental/Interagency Coordination of Environmental Planning (IICEP) process prescribed by AFI 32-7060 (US Air Force 1994), Scott AFB notified relevant federal, state, and local agencies of the Proposed Action and alternatives and provided them with sufficient time to make known their environmental concerns specific to the action. The IICEP process also provided Scott AFB the opportunity to cooperate with and to consider state and local views in implementing the federal proposal. Comments from US Environmental Protection Agency (EPA), Illinois EPA, USFWS, and the Illinois SHPO were received on the Draft IDEA and Draft FONSI/FONPA (Finding of No Practical Alternative) during the review period. A listing of all agencies contacted during the IICEP process, comments received, and responses to comments received were included in an appendix. Agency comments on the Draft IDEA were considered prior to a decision being made as to whether or not to sign the FONSI/FONPA.

4.3.1.4.2 Native American tribal consultation

EO 13175, "Consultation and Coordination with Indian Tribal Governments" (Clinton 2000) directs federal agencies to establish regular and meaningful relationships with affiliated federally-recognized Native American tribal governments on a government-to-government basis. Additionally, Section 106 of the NHPA requires consultation with tribes whose interests might be impacted by activities on federally administered lands. Thus, those tribes that are affiliated historically with the Scott AFB geographic region are invited to consult on all proposed undertakings that have a potential to affect properties of cultural, historical, or religious significance to the tribes. Two such interested tribes were identified during project planning, and consultation with them took place in early 2012.

4.3.1.4.3 Public Involvement

The NOA for the Draft IDEA and Draft FONSI/FONPA was published in the *Belleville News-Democrat* on 26 April 2012. The announcement set a 45-day review period and let the public know these documents were available at the Belleville Public Library and the Scott AFB Library, and also on the Scott AFB website. The 45-day review period ended on 11 June 2012,

and no public comments were received on the Draft EA and Draft FONSI/FONPA.

4.3.1.5 Process implementation

A review of the Installation Development Plan (IDP) was conducted as a parallel action to the IDEA. The separate requirements under NEPA and NHPA were completed more or less concurrently according to Air Force regulations and policy guidance. Paragraph 2.1.3 (Demolition Projects), in section D1 of the EA, describes the need to coordinate the proposed demolition of Building 48 with the SHPO, and refers to a completed MOA contained in Appendix G of the EA. The preparers did not elect to formally merge NEPA and NHPA procedures. However, this dual assessment probably did not reach the level of coordination needed where significant time could have been gained. AFI 32-7060 provides procedures for the USAF to achieve compliance with all applicable federal, state, and local directives and instructions for IICEP. The IICEP process is used for the purpose of agency coordination and implements scoping requirements.

A final FONSI/FONPA was signed 06 September 2012, and includes three potential building demolition projects, one of which was the subject of the MOA with the SHPO signed in December 2011 (contained in Appendix B of this report). Thus, agreement with the SHPO under Section 106 preceded final development of the Draft EA.

5 Findings and Recommendations

5.1 Results of case studies

Each of the documents reviewed, representing the Army, Navy, and Air Force, appeared to represent good coverage of both biophysical and cultural considerations appropriate to the nature of the projects and the setting of the proposed action. Some findings were pretty much as expected, while others were unique to the local considerations. Two of the locations reviewed, Fort Polk and Fort Wainwright, explicitly stated that it was their goal to combine NEPA and NHPA processes in the preparation of their documentation. These two were full EIS documents, while the others were treated as EAs. Scott AFB, NSGL, and Fort Hood executed the process separately but brought NHPA compliance into the EA through inclusion of cultural resources, combined with documentation showing that coordination with the SHPO had been accomplished before a decision was announced. A different accommodation was made in the case of the RIA. Their representative reported that all recent examples of actions requiring assessment under NEPA resulted in them being classed as categorical exclusions not requiring further examination or public comment. These actions largely involved maintenance or improvements of buildings in the Rock Island Historic District. Each action, however, was determined to be an “undertaking” in the sense of NHPA and required coordination with the Illinois SHPO. Demolition of some buildings considered as undertakings were covered within an appropriate MOA.

5.1.1 Separate actions later integrated

The three examples reviewed in which NHPA Section 106 processes were later incorporated into the document were all EAs and not full EISs. As noted above, the different studies (sited on Scott AFB, NSGL, and Fort Hood) were careful to conduct the procedures required by 36 CFR § 800.8(c)(1)(i)–(v) for each action which could be considered an “undertaking” requiring consultation. Additionally, as noted, clear evidence was incorporated within the EA or appended to the final document (or both) to show the processes had been completed prior to the signing of the ROD. There is no indication that the preparers felt that this integration was particularly burdensome. In fact, it is not unlike the procedures required under the Endangered Species Act where the US FWS must be notified of the

potential to adversely affect a listed species. The FWS regional biologist then determines if the effect is significant, and, if so, what changes in the action will be required and/or what mitigation actions are required before the FWS will agree to allow the proposed action to proceed.

5.1.2 Combining processes

Both of the locations which planned to combine processes were developing a full EIS rather than an EA, and both developed an action summary. The Fort Wainwright EIS concerned the stationing of new aircraft and support and operational personnel (US Army 2009). A presentation prepared in 2010 by the staff from Fort Wainwright included these procedural steps (Graham and McEnteer 2010; Table 4):

Table 4. Fort Wainwright NEPA-NHPA integration plan (Graham and McEnteer 2010).

• Create an integrated schedule
• Apply NEPA Staffing SOP to Cultural Resources Staffing Actions
• Supplied information to Section 106 consulting parties through the NEPA process
– Cultural Resources Technical Report
– Draft and Final EIS
– Website
• Held numerous issue-focused meetings involving several organizations
– State Historic Preservation Officer
– National Park Service
– Advisory Council on Historic Preservation
– Tanana Yukon Historical Society
– Fairbanks/North Star Borough Historic Preservation Commission

The Fort Polk action involved a long-term installation development program which included potential acquisition of more than 100,000 acres of land for training purposes. The documentation was undertaken assuming a full EIS would be required. With respect to the integration of NEPA and NHPA, the approach taken by Fort Polk is similar to that of Fort Wainwright to the extent that the timelines of the two processes were integrated. This may be seen in Table 5, where the NEPA and NHPA actions are indicated in column 3, “Purpose” of the step—where E indicates NEPA-driven actions, C shows NHPA-driven ones, and both are indicated for the

final step which is publishing the ROD Notice (table is adapted from Farris et al. 2011). Appendix B of the EIS (US Army 2010) includes the letters used to notify appropriate persons and offices for both NEPA and NHPA coordination, and it further identifies those which requested to actively participate in scoping activities. Responses from the Louisiana SHPO and the ACHP acknowledge that they have correctly been notified of the intent to combine processes (US Army 2010: Appendix B, Attachment C.2, Section 106 Consultation). The ACHP further notes that the installation needs to be sure that the requirements of 36 CFR § 800.8 (c) are met for the following tasks: (1) identify consulting parties, (2) involve the public, (3) identify historic properties and assess the effect of the action on them, and (4) consult with appropriate representatives of interested and affected parties during the scoping process and document preparation.

Table 5. Fort Polk integration of NEPA and NHPA processes
(adapted from Farris et al. 2011).

Action	Completed	Purpose*
NOI published in FR (Tier 1 EIS and 106 initiation)	17 Apr 2009	E
Send invitation letters to participate and finalize internal consultation plan	24 Apr 2009	E
NEPA Agency and public scoping meetings (including SHPO) 4 meetings	14 May 2009	E
Formal notice to SHPO and ACHP of plan to use 800.8(c)	1 Jun 2009	C
DOPAA development	17 Jun 2009	E
Predictive Model update initiated	10 Aug 2009	C
Preliminary DEIS for internal review use	20 Aug 2009	E
Notify interested parties that DEIS will be available	1 Sep 2009	C
DEIS NOA published	23 Oct 2009	E
Internal draft of ROD incl. Sec 106 terms and conditions	31 Oct 2009	C
Consultation meetings with interested parties (two)	1 Feb 2010	C
FEIS sent to print incorporating consultation results	5 Feb 2010	E
FEIS NOA published	19 Feb 2010	E
Consultation of ROD & Sec 106 terms and conditions	21 Mar 2010	C
ROD signed	23 Apr 2010	E
Final ROD sent to consulting parties	29 Apr 2010	C
ROD NOA published	18 May 2010	C&E

C = NHPA-driven actions; E = NEPA-driven actions.

Seemingly, the opportunity to utilize the much more comprehensive coordination procedures within the EIS timeline allowed the procedures to be performed simultaneously or at least in parallel. While not obvious from a

superficial overview of the required procedures for an EA versus an EIS, the difference in time necessary for the various notifications and consultations under NEPA allows for very similar procedures to be conducted which meet the NHPA Section 106 requirements.

5.1.3 Conclusions

It appears from this brief review that either type of process could effectively be utilized when preparing environmental documentation for a project. There are some significant differences between the timelines of an EA and an EIS, however, which may cause the proponents of the process to elect one over the other. Within most agencies, the outside, public coordination processes required by the EIS procedures provides a more clear opportunity to conduct coordination of the cultural aspects of possible consequences simultaneously. The EIS process, even at its most efficient, rarely takes less than a year. By contrast, a more typical EA has a much shortened timeline (often no more than 60 days), followed by a very small window (typically two weeks) during which public comment is sought.

Despite the point about timelines, it should be recognized that the documents reviewed here as EAs were all the results of significant effort, taking at least several months, if not a year or more, to execute. All three involved contracted preparers in addition to installation staff. This required that “outside” consultations required by NHPA (and by the ESA) be undertaken well in advance of the public announcement of the EA’s brief comment period. Thus, it would theoretically have been possible for a more extensive public review and comment period to be used. The NEPA regulations of the services involved authorize such public review processes, but do not require them. In all the reviewed cases, it appears that the minimum 14-day comment period required by the CEQ regulations was utilized or exceeded in all cases. We note that the Air Force typically utilizes a 30-day comment period and applied a 45-day comment period for the IDEA reviewed here. These brief periods typically do not result in responses from those parties not already aware that the action was in the process of environmental review. The exception here being the reviews and consultation required by the ESA and NHPA.

Even for an EA, “outside” consultations required by NHPA (and the ESA) are required to be undertaken well in advance of the public announcement of the EA’s comment period. In fact, it is well to consider the NHPA and ESA procedures in the same light. They both require that potential conse-

quences to their target resources be identified, that local and regional experts with jurisdiction in the subject matter be consulted, and that *agreement* be reached as to the required mitigation actions and/or project re-configuration. In regard to agreement being reached, both procedures differ significantly from the “normal” requirements of NEPA. The basic tenet of NEPA is that of public disclosure, but there is no explicit requirement that all parties agree in all aspects of the final decision. However, both NHPA and ESA consultation must conclude in agreement among all parties. In this regard, the NHPA and ESA consultation may be regarded as a special element within the NEPA context, having special requirements which differ from the other elements of consideration.

5.2 Recommendations

It appears from review of these examples of substantial environmental documentation representing all military services that all of the documents respond at least adequately to the differing requirements for consideration of the consequences of the proposed action. Whether an EIS or an EA, all reasonable consequences appear to have been examined adequately. In all cases, the external coordination activities required under Section 106 of the NHPA and Section 7 of the ESA were performed in a timely fashion, and documentation that the processes had been completed was incorporated in the final version of the document. Thus, with respect to these important actions at least, there appears to be little difference between the EA and the EIS approach. The major difference appears to be in that these steps must have been initiated well before documentation was drafted, although after the project description was available. In the EIS procedures, this would be related to public scoping activities, which are not a significant part of the procedures when an EA is processed. Thus, the EIS-related timeline utilizing public scoping allows for concurrent processing of the outside consultations at the same time that the different publics are asked to identify issues that may be of concern to them.

At least as revealed in the documentation reviewed for this study, the installations, and, it must be assumed, their contracted preparers, are already building in a form of coordinated procedure which has a place for NHPA processes. Analogizing the Section 106 consultation under NHPA with the Section 7 consultation under ESA is important here, because the Section 7 consultation has been a recognized part of the EA-EIS process for decades, and has been performed perhaps thousands of times without undue problems in most cases. Actions cannot proceed without agreement

on potential effects on listed species, including mitigation measures required in the biological opinion. This would appear to be essentially the equivalent of the MOA (or PA) that is required following Section 106 consultation. Proponents' procedures appear to already be accommodating the requirements of both laws. The availability of the alternate process under 36 CFR § 800.8(c) to formally combine public and agency consultation under NHPA may, however, need to be better publicized and even recommended when a full EIS is envisioned.

5.3 Recommended procedures

The Project Delivery Team recommended set of procedures bring together key points from the CEQ-ACHP Handbook, DoD installations, and FWS. Highlights of these procedures are listed below and shown in Figure 15.

- Integration of NEPA with Section 106 starts with early coordination (e.g., inform cultural resources staff of proposed action/ potential undertaking as soon as project starts to take shape).
- Make initial determination of whether NEPA consideration will be with an EA or an EIS. If an EA is the focus, consider expanding the public notification and input processes even if agency procedures do not require it.
- Create an integrated schedule for the two processes. (Refer to Appendix A for illustrations of integration.)
- Provide information on proposed action(s) to external agencies as soon as practicable. This includes the biological assessment to FWS and notification of potential adverse effects to Section 106 consulting parties.
- Hold issue-focused meetings involving several organizations and stakeholders (e.g. SHPO, ACHP, NPS, THPO, etc.). These meetings bring together planning, NEPA, and cultural resources staff.
- Actively participate in each other's processes (e.g., baseline studies, area of potential effect, significance criteria, public meetings, consultations, draft document reviews, and mitigation measures).
- Avoid duplication. For example, public notification and public comment periods can fulfill both NEPA and NHPA Section 106 requirements. Build in as much flexibility as possible.
- Prepare clear documentation explaining NEPA – Section 106 coordination. This documentation will inform the public, stakeholders, and serve as an administrative record.
- Assess effects (environmental consequences).

- **Develop measures (consult relevant organizations/parties) to mitigate adverse effects.**
- **Inform decisions. Incorporate results of Section 106 compliance into the Final EA/EIS and FONSI/ROD.**
- **Proceed with implementation. Document the completion of all mitigation actions.**
- **Remember that the potential savings of time and effort are not principally for the benefit of your staff, but for the benefit of the numerous outside agencies, officials, NGOs and other stakeholder groups who are asked to express their concerns about the effects of your proposed project.**

Considering NEPA and NHPA Together

Steps Toward Integration

- PA Programmatic Agreement
- MOA Memorandum of Agreement
- CE Categorical Exclusion
- EA Environmental Assessment
- EIS Environmental Impact Statement
- FONSI Finding of No Significant Impact
- ROD Record of Decision

Identify the potential biophysical effects of the project's physical changes.

NEPA Review Steps

The NEPA review process has three basic steps. With each step, is the possibility of completing the process or continuing it forward according to what level of action is needed.

CONDUCT a preliminary screening for NEPA's applicability

While determining the NEPA applicability for a project, also find out if the proposed action is covered under a CE. If it is covered, then the agreed upon monitoring and/or mitigation measures can be implemented.

If not covered, prepare an EA.

PREPARE an EA if environmental effects are uncertain

Conducting an EA will determine whether or not the proposed action will have significant environmental effects. If there are no significant environmental effects the EA will be completed with a FONSI and implemented with monitoring as provided in the decision.

If there are significant effects, an EIS is required.

PREPARE an EIS

An EIS serves as a tool for decision making during the remainder of the project's planning and execution where the positive and negative environmental effects are outlined. EISs must also highlight reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the environment. They are used to inform decisions - not to justify already-made decisions.

The EIS closes with a ROD and monitoring as provided in the decision.

*NEPA requires public involvement, but the level of engagement is decided by the agency proposing the undertaking. At least one public hearing is required when conducting an EIS.

Define the proposed project in terms of physical change

During any project's initial scoping and planning phases is when planning for the NEPA and NHPA processes should occur. At this time, the feasibility of integrating Section 106 and NEPA requirements should be assessed and a method for doing so should be outlined. As soon as possible, create a schedule of which Section 106 and NEPA actions to combine. Build in as much flexibility as possible into the integrated schedule.

- Integrating the two processes through public involvement is an effective way of combining the required actions.
- Involve cultural resources staff early and inform them of the potential undertaking as soon as a project starts to take shape.
- Prepare clear documentation explaining NEPA and Section 106 coordination. This documentation will inform the public, stakeholders, and serve as an administrative record.
- Avoid duplication. For example, public notification and public comment periods can fulfill both NEPA and NHPA Section 106 requirements.
- Provide information on proposed actions to external agencies as soon as practicable.
- Make initial determination of whether NEPA consideration will be with an EA or an EIS. If an EA, expand the public notification and input processes even if agency procedures do not require it.
- Actively participate in each other's processes such as baseline studies, area of potential effect, significance criteria, public meetings, consultations, draft document reviews, and mitigation measures.
- Hold issue-focused meetings involving several organizations and stakeholders (e.g. SHPO, ACHP, NPS, THPO, etc.). These meetings should bring together Planning, NEPA, and resource staff.
- Develop mitigation measures by consulting with relevant organizations and parties to address adverse effects.
- Proceed with implementation. Document the completion of all mitigation actions.
- Incorporate results of Section 106 compliance into the Final EA/EIS and FONSI/ROD.

Potential time and effort savings are not only for the benefit of the staff involved, but for the benefit of the numerous outside agencies, officials, NGOs, and other stake holders who are asked to express their concerns about the effects of the proposed project.

Public involvement to every extent practicable*

Public scoping and appropriate public involvement

Public review and comment with appropriate public involvement

Identify the potential sociocultural effects of the project's physical changes.

NHPA Section 106 Review Steps

The NHPA Section 106 review process has four basic review steps. Throughout the review process, include as many consultations as necessary.

INITIATE the process

During this step the undertaking will be clearly established, the appropriate SHPO/THPO identified as well as all other consulting parties, and plans are made to involve the public in process.

In this step, determine if the proposed undertaking is covered by a PA or MOA.

IDENTIFY historic properties

Determine the scope of efforts to help identify the historic properties that will be affected by the proposed undertaking. After the properties are identified, their historic significance must be documented and established.

ASSESS adverse effects

Apply the criteria of adverse effects.
Continue consultations and public involvement.

RESOLVE adverse effects

Continue consultations.

*The type of public involvement depends on various factors, including, but not limited to, the nature and complexity of the undertaking, the potential impact, the historic property, and the likely interest of the public in historic preservation issues.

Figure 15. Decision-making matrix for use when considering integration of NEPA and NHPA processes (ERDC-CERL).

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Appendix A: Integration Guidance Provided by the Council on Environmental Quality and the Advisory Council on Historic Preservation

The ultimate goal for both NEPA and NHPA is to ensure the federal government considers the effects of its actions on the environment, acts in the public interest, and makes the decision-making process as open, efficient, and transparent as possible. Integrating the NEPA and Section 106 review processes fulfills the goals set out in NEPA and the CEQ regulations, and also those of the ACHP in their revised Section 106 regulations.

In March 2013, CEQ and ACHP (two independent agencies whose members are presidentially appointed) released a joint study examining the issue of how to ingrate the processes under which NEPA and NHPA are conducted. The document is called *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106* (CEQ and ACHP 2013). The structure of the document allows users to proceed through the issues of integrating the requirements of these two Acts with relative ease by first outlining the relationship between NEPA and the Section 106 processes. Next document provides outlines for the potential coordination and then substitution of the review processes. There is a chapter dedicated to emergency procedures as well as how to time decisions and coordinate continuing collaboration. The document concludes with examples that provide lessons learned, best practices, and resources for more information.

The following paragraphs summarize the main sections, definitions, and points made in *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106*.

Introduction. Since about 1970, the NHPA (Section 106) and NEPA have together helped ensure that our natural, cultural, and historic environment is given consideration in federal project planning. Federal courts have characterized both laws as requiring the federal government to “stop, look, and listen” before making decisions that might affect historic properties as one component of the human environment. Both laws require federal agencies to make decisions that are informed by how they predictably affect the cultural and natural environment.

The writers state the 2013 handbook is intended to “address a long-standing need to improve the abilities of federal agencies, applicants, and consultants to conduct these environmental reviews in the most efficient and effective ways possible.” The handbook uses the term “integrate” to encompass the terms used under both the NHPA and NEPA. Another stated purpose is to assist federal planners and cultural resources managers to improve the integration of NEPA and Section 106 compliance and reviews so that federal decision makers and the public consider environmental issues early in the planning process.

Section 106 summary. Enacted in 1966, Section 106 of the NHPA requires that federal decision makers consider historic properties during project planning. Federal agencies meet this requirement by completing the Section 106 process defined in the implementing regulations, "Protection of Historic Properties," (36 CFR Part 800). Participation is envisioned (or required) by state and local governments, Indian tribes and Native Hawaiian organizations; applicants for federal assistance, permits, or licenses; representatives from interested organizations; and private citizens as “consulting parties.” The concept is that these parties will reach agreement on measures to avoid, minimize, and otherwise mitigate adverse effects on historic properties and to find a balance between project goals and preservation objectives.

The requirements for Section 106 compliance include four major steps:

1. Initiating the process
2. Identifying historic properties
3. Assessing adverse effects
4. Resolving adverse effects

NEPA Summary. The National Environmental Policy Act, January 1, 1970, requires federal agencies to assess proposed federal actions and identify their potential environmental impacts, including impacts on historic and cultural resources. Federal agencies meet their NEPA responsibilities by completing the assessment processes within their separate agency’s NEPA regulations and the requirements of 40 CFR Parts 1500-1508 (the CEQ’s regulations). There are typically three recognized forms of NEPA review: Categorical Exclusion, Environmental Assessments, and Environmental Impact Statements. In

practice, several other lesser review processes may take place at the local level involving the smallest actions.

To review this hierarchy of assessment actions:

◇ *Categorical Exclusion (CE)*: A CE describes a category of actions that are expected not to have individually or cumulatively significant environmental impacts. These are defined within each agency's NEPA implementing regulations which have undergone CEQ and public review. An action defined as a CE (or as a CATEX) does not require further review when there are no extraordinary circumstances that would suggest that further environmental review is warranted.¹³

◇ *Environmental Assessment (EA)*: When a CE is not appropriate, the agency will prepare an EA to determine whether the proposed action will cause significant environmental effects. This analysis will often examine actions to mitigate any adverse effects. A decision will then be made as to whether significant effects will remain after the mitigation actions. If so, a finding of no significant impact (FONSI) is made, and the NEPA review process is completed. The CEQ regulations suggest that one result of an EA can be the decision to prepare an EIS. In practice, most agencies move directly to the EIS process when severe consequences may be possible and/or the action is highly controversial.¹⁴

◇ *Environmental Impact Statement (EIS)*: The most intensive level of analysis is the EIS, which is typically reserved for the analysis of proposed actions that are expected to result in significant environmental impacts or public controversy. In practice, an EA may often be as far-reaching as an EIS, with little difference in content. After an EIS is prepared, the NEPA review process is concluded when a record of decision (ROD) is issued. NEPA and CEQ's regulations require the preparation of an EIS when a proposed federal action may significantly affect the human environment. Historic properties, as a subset of cultural resources, are one aspect of the "human environment" defined by the NEPA regulations. Consequently, impacts on historic properties and cultural resources must be considered in determining whether to

¹³ NEPA and NHPA: A Handbook for Integrating NEPA and Section 106. Council on Environmental Quality Executive Office of the President and Advisory Council on Historic Preservation. March 2013, 9.

¹⁴ NEPA and NHPA: A Handbook for Integrating NEPA and Section 106. March 2013, 9.

prepare an EIS. The components of a NEPA review are generally equivalent to those of Section 106 (i.e., scoping/initiating the environmental review process; identifying alternatives; assessing environmental impacts; and considering mitigation of environmental impacts) (CEQ and ACHP 2013).

Comparing Section 106 and NEPA reviews. Clearly, there are similarities between these processes. NEPA practitioners often describe Section 106, along with a broad array of other federal environmental laws such as the Endangered Species Act, Clean Air Act, General Conformity Rule, and the Marine Mammal Protection Act as being under the NEPA umbrella. However, Section 106 and these other laws have independent legal requirements. For instance, NEPA requires public involvement; however, the form and style of communication among federal and non-federal parties in NEPA may be interpreted to be quite different from that of Section 106 consultation among consulting parties. Nevertheless, both NEPA and Section 106 require the evaluation of alternatives to lessen harm to protected resources and thus present opportunities for coordination at early stages of project planning.

The Section 106 implementing regulations in 1999 included provisions for coordinating Section 106 with NEPA and also included procedures for substituting NEPA reviews for Section 106 compliance (36 CFR § 800.8(c)). The ACHP and CEQ have developed this handbook to assist agencies in minimizing redundancies in complying with NEPA and Section 106 requirements through improved coordination and substitution. Improved integration enhances public involvement and consultation by providing access to timely and informed reviews of proposed federal actions and undertakings.

A number of topics regarding Section 106 and NEPA integration are addressed in this handbook, including linkages between the components of each review process; how historic properties are considered in determining the appropriate level of NEPA analysis and evaluating alternatives for an action; the roles of participants in Section 106 and NEPA reviews; and a comparison of the definitions of relevant terms under the two statutes. This handbook also discusses how to substitute the process and documentation required for preparation of an

EA/FONSI or an EIS/ROD for the Section 106 procedures, as allowed under 36 CFR § 800.8(c).

Coordination versus substitution. There are some differences between coordinating reviews and substituting the NEPA analysis and documentation (NEPA review) for Section 106 procedures. Coordination means maintaining the standard steps in the Section 106 review process but aligning them with the procedures of the NEPA review. Substitution means fulfilling the purposes of Section 106 review in the context of a NEPA review, without employing the standard Section 106 steps. Coordination of NEPA reviews and Section 106 compliance processes under 36 CFR § 800.8(a) typically allows the responsible federal agency's environmental review processes to be comprehensive and less duplicative, and therefore, should be done for all undertakings to the greatest extent possible. Substitution of NEPA for Section 106 compliance is an optional tool that may be appropriate in certain circumstances but not necessarily all. In that respect, substitution is similar to the use of a Section 106 program alternative. A close coordination of the two processes is believed to have the following benefits:

- Facilitates a broad discussion of effects to the human environment and integrates the consideration of historic properties with other environmental factors.
- Provides a more holistic view of the proposed federal undertaking and its effects to ensure that historic preservation concerns are not treated as an afterthought.
- Reduces the probability that cultural resources that do not meet the criteria for listing on the National Register of Historic Places are given insufficient consideration.
- Offers the public opportunities to provide more focused and timely input.
- Enables agencies to develop timelines and milestones that eliminate duplication.
- Promotes transparency and accountability in federal decision-making.

The stated goal of the handbook is to “provide NEPA and Section 106 practitioners, project managers and proponents, environmental planners, and contractors with key concepts and strategies for integrating these two analyses,” and that the recommendations serve as a foundation from which federal agencies may develop or revise their own procedures or protocols to best suit their agencies’ missions, their agencies’ frameworks for implementing their programs, and their agencies’ approaches to specific undertakings to satisfy the requirements of both NHPA and NEPA.

The diagrams in Figure 16-Figure 18 illustrate the steps taken through both the Section 106 and NEPA processes; areas for integrating the two processes are highlighted with brown arrows.

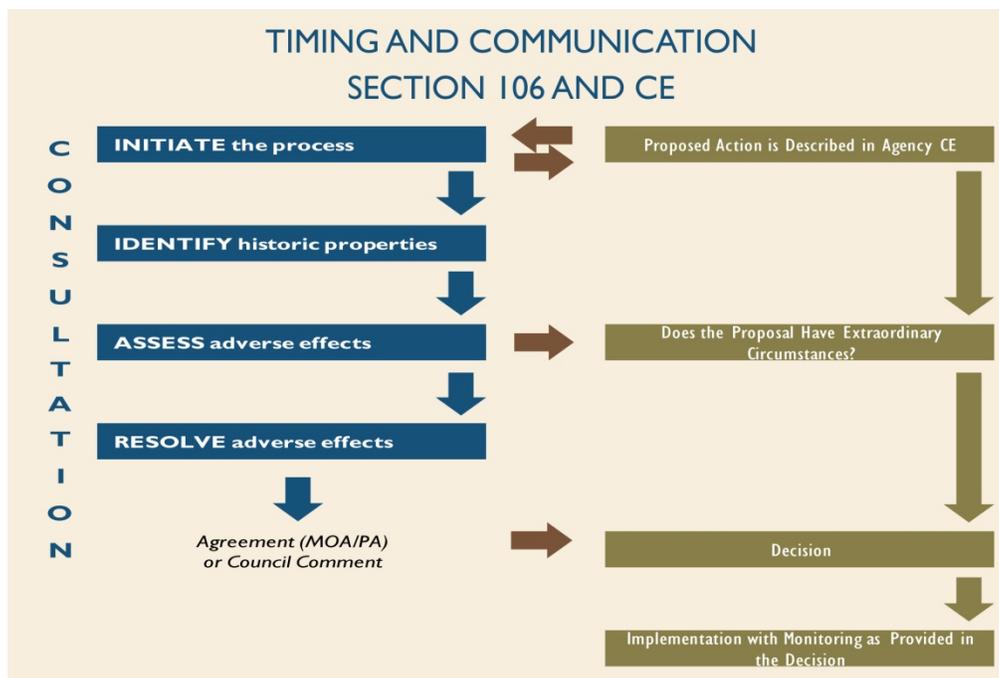


Figure 16. A generalized diagram of the Section 106 process compared with the NEPA-CE process with areas of potential integration highlighted by brown arrows (CEQ and ACHP 2013).

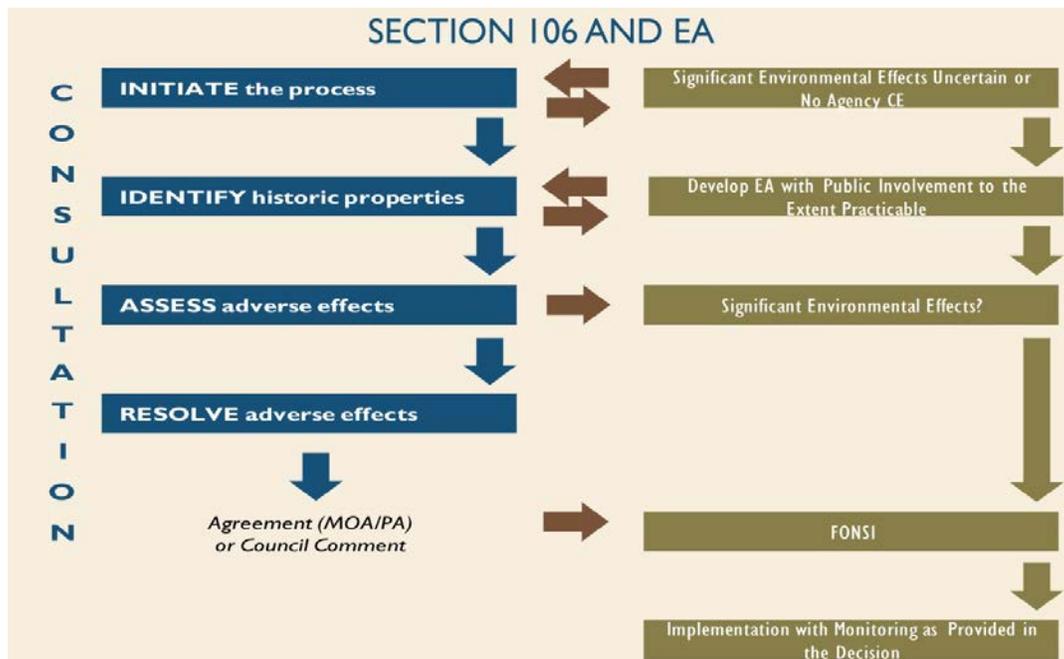


Figure 17. A generalized diagram of the Section 106 process compared with the NEPA-EA process, with areas of potential integration highlighted by brown arrows (CEQ and ACHP 2013).

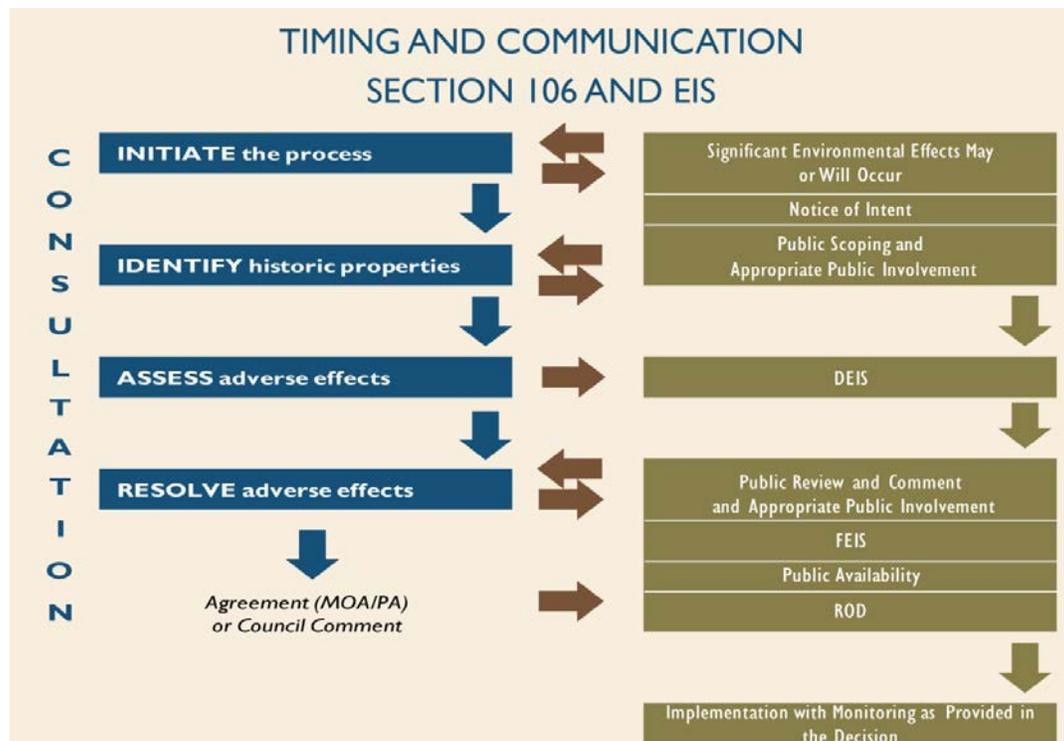


Figure 18. A generalized diagram of the Section 106 process compared with the NEPA-EIS process with areas of potential integration highlighted by brown arrows (CEQ and ACHP 2013).

Appendix B: Memorandums of Agreement utilized for project review

B.1. Rock Island Arsenal

The following two MOAs were executed between Rock Island Arsenal and the Illinois Historic Preservation Agency in 2008 and 2009, as a result of proposals to modify existing buildings that were considered contributing to the Historic District. The actions were considered an “undertaking” within the context of Section 106 of the NHPA, but the actions did not require significant assessment procedures under NEPA.

**MEMORANDUM OF AGREEMENT BETWEEN
THE UNITED STATES ARMY GARRISON-
ROCK ISLAND ARSENAL AND THE
ILLINOIS STATE HISTORIC PRESERVATION
OFFICER**

**REGARDING THE DEMOLITION OF BUILDING 53 AT
THE ROCK ISLAND ARSENAL IN ROCK ISLAND,
ILLINOIS**

WHEREAS, the United States Army (ARMY) plans to demolish Building 53;
and

WHEREAS, Building 53 contributes to the Rock Island Historic District
which is listed on the National Register of Historic Places; and

WHEREAS the undertaking consists of demolition of one stone structure, the
removal of the debris from RIA, and the grading of the respective sites for fu-
ture use; and

WHEREAS consideration of alternative use has been explored for the build-
ing, with the result that none were found; and

WHEREAS consideration of repair has been explored for the building, and
found that the building was not in a salvageable condition; and

WHEREAS, the ARMY has defined the undertaking's area of potential effect (APE) to be Buildings 60, 62, 64, 66, 68, 56, and 90, contributing properties within the Rock Island Arsenal (Rodman Plan- Stone Buildings) which are listed as National Historic Landmarks; and

WHEREAS, the ARMY has determined that the undertaking may have an adverse effect on the Rock Island Arsenal, which is listed as a National Historic Landmark and has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the ARMY has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR§ 800.6(a)(1)(iii); and

NOW, THEREFORE, the ARMY and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The ARMY shall ensure that the following measures are carried out:

I. Prior to demolition of the building, ARMY shall ensure that adequate documentation is provided to the SHPO to archive. The following items will be required to fulfill this requirement:

A) The various building facades will be photo-documented. Photographs shall be archival quality and produced in 35 mm black and white or high resolution digital format. Photographs shall be 5" x 7" dimension. Photographs shall be reproduced on glossy, high-quality Kodak photo paper.

B) Copies of any original drawings or sketches shall be provided. Items will be copied full size at no less than 400 DPI resolution.

C) One set of photographs and the drawing/sketch copies shall be forwarded to the

SHPO to archive. A set of the photographs and the original drawings/sketches shall be retained by the ARMY'S cultural resources management unit at Rock Island Arsenal (RIA).

II. DURATION

This MOA will be null and void if its terms are not carried out within two (2) years from the date of its execution. Prior to such time, the ARMY may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation V below.

III. MONITORING AND REPORTING

The ARMY shall provide the SHPO with a summary report detailing work undertaken pursuant to the terms of this MOA. Such report shall include any problems encountered, and any disputes and objections received in ARMY'S efforts to carry out the terms of this MOA.

IV. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, ARMY shall consult with such party to resolve the objection. If ARMY determines that such objection cannot be resolved, ARMY will:

Forward all documentation relevant to the dispute, including the ARMY'S proposed resolution, to the ACHP. The ACHP shall provide the ARMY with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the ARMY shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and SHPO, and provide them with a copy of this written response. The ARMY will then proceed according to its final decision.

If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the ARMY may make a final decision on the dispute and proceed accordingly.

The ARMY'S responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

V. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VI. TERMINATION

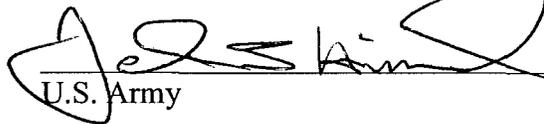
If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the ARMY must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Army shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the ARMY and SHPO and implementation of its terms evidence that the ARMY has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment."

SIGNATORIES:

UNITED STATES ARMY, ROCK ISLAND


U.S. Army

ILLINOIS


Deputy SHPO

ROCK ISLAND ARSENAL

Date

5 May 2008

STATE HISTORIC PRESERVATION OFFICER

Date

6-5-08

Notes:* Remember that the agency must submit a copy of the executed MOA, along with the documentation specified in Sec. 800.11 (f), to the ACHP prior to approving the undertaking in order to meet the requirements of section 106.36 CFR § 800.6(b)(1)(iv).

**MEMORANDUM OF AGREEMENT BETWEEN
THE UNITED STATES ARMY GARRISON- ROCK
ISLAND ARSENAL AND THE
ILLINOIS STATE HISTORIC PRESERVATION
OFFICER**

**REGARDING THE DEMOLITION OF BUILDINGS 54, AND 141
AT THE ROCK ISLAND ARSENAL IN ROCK ISLAND, ILLINOIS**

WHEREAS, the United States Army (ARMY) plans to demolish Buildings 54, and 141; and

WHEREAS, the Buildings 54, and 141 contribute to the Rock Island Historic District which is listed on the National Register of Historic Places; and

WHEREAS the undertaking consists of demolition of two brick structures, the removal of the debris from RIA, and the grading of the respective sites for future use; and

WHEREAS consideration of alternative use has been explored for each of the buildings, with the result that none were found; and

WHEREAS consideration of repair has been explored for each of the buildings, and found that the buildings are not in a salvageable condition; and

WHEREAS, the ARMY has defined the undertaking's area of potential effect (APE) to be Buildings 60, 62, 64, 66, 68, 56, 90, 102, and 104, contributing properties within the Rock Island Arsenal (Rodman Plan- Stone Buildings) which are listed as National Historic Landmarks; and

WHEREAS, the ARMY has determined that the undertaking may have an adverse effect on the Rock Island Arsenal, which is listed as a National Historic Landmark and has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the ARMY has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, the ARMY and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The ARMY shall ensure that the following measures are carried out:

I. Prior to demolition of any of the buildings, ARMY shall ensure that adequate documentation is provided to the SHPO to archive. The following items will be required to fulfill this requirement:

A) The various building facades will be photo-documented. Photographs shall be archival quality and produced in 35 mm black and white or high resolution digital format. Photographs shall be 5" x 7" dimension. Photographs shall be reproduced on glossy, high-quality Kodak photo paper.

B) Copies of any original drawings or sketches shall be provided. Items will be copied full size at no less than 400 DPI resolutions.

C) One set of photographs and the drawing/sketch copies shall be forwarded to the SHPO to archive. A set of the photographs and the original drawings/sketches shall be retained by the ARMY'S cultural resources management unit at Rock Island Arsenal (RIA).

II. DURATION

This MOA will be null and void if its terms are not carried out within two (2) years from the date of its execution. Prior to such time, the ARMY may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation V below.

III. MONITORING AND REPORTING

The ARMY shall provide the SHPO with a summary report detailing work undertaken pursuant to the terms of this MOA. Such report shall include any problems encountered, and any disputes and objections received in ARMY'S efforts to carry out the terms of this MOA.

IV. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, ARMY shall consult with such party to resolve the objection. If ARMY determines that such objection cannot be resolved, ARMY will:

Forward all documentation relevant to the dispute, including the ARMY'S proposed resolution, to the ACHP. The ACHP shall provide the ARMY with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the ARMY shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and SHPO, and provide them with a copy of this written response. The ARMY will then proceed according to its final decision.

If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the ARMY may make a final decision on the dispute and proceed accordingly.

The ARMY'S responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

V. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VI. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the ARMY must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Army shall notify the signatories as to the course of action it will pursue.

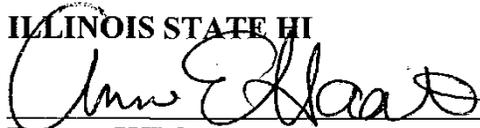
Execution of this MOA by the ARMY and SHPO and implementation of its terms evidence that the ARMY has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment."

SIGNATORIES:**UNITED STATES ARMY, ROCK ISLAND ARSENAL**

(signed)
U.S Army

5 May 2008'
Date

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

ILLINOIS STATE HI

Deputy SHPO

6-5-08
Date

Notes:

*Remember that the agency must submit a copy of the executed MOA, along with the documentation specified in Sec. 800.11 (f), to the ACHP prior to approving the undertaking in order to meet the requirements of section 106.36 CFR § 800.6(b)(1)(iv).

B.2. Naval Station Great Lakes

MEMORANDUM OF
AGREEMENT
BETWEEN
THE ILLINOIS STATE HISTORIC PRESERVATION
OFFICER AND COMMANDER, NAVY REGION
MIDWEST REGARDING
MITIGATION OF THE
SAMPSON STREET
BRIDGE REPAIR
NAVAL STATION GREAT
LAKES, ILLINOIS

WHEREAS, Naval Station Great Lakes (NSGL), of the Department of the Navy, plans to undertake repairs upon the Sampson Street Bridge that enhance pedestrian safety and accommodate NSGL emergency fire response vehicles; and

WHEREAS, NSGL has determined that the undertaking may have an adverse effect on the Sampson Street Bridge, which is listed in the National Register of Historic Places as a contributing resource to the Great Lakes Naval Training Station Historic District, and has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 CFR § 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 USC§470f); and

WHEREAS, NSGL has consulted with the Landmarks Preservation Council Illinois and the National Trust for Historic Preservation regarding the effects of the undertaking on historic properties and has invited them to sign this Memorandum of Agreement as concurring parties; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), NSGL has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Illinois SHPO is authorized to enter into this Agreement in order to fulfill its role of advising and assisting federal agencies in carrying out their Section 106 responsibilities under the following federal statutes: Section 101 and 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. § 470f, and pursuant to 36 CFR § 800, regulations implementing Section 106 at §§ 800.2(c)(1)(i) and 800.6(b); and

WHEREAS, NSGL and the SHPO agreed that Illinois Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) Standards and Guidelines, Level II recordation of Sampson Street Bridge is reasonable mitigation to the adverse effect resulting from the proposed undertaking;

NOW, THEREFORE, NSGL and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations:

STIPULATIONS

I. MITIGATION MEASURES:

NSGL shall ensure that the following mitigation measures are implemented:

A. Documentation and recordation shall be accomplished in compliance with Illinois HABS/HAER Level II standards, provided as follows:

1. Area location map abstracted from appropriate 7.5 Minute USGS Quadrangle Map, submitted on 8.5x11" archival bond;
2. Site plan indicating footprint of the extant bridge, surrounding terrain features, including the creek, dirt road and slope, and other man-made features within a 100 yard radius of the bridge center, submitted on 8.5x11" archival bond;
3. Approximately ten (10) photographs of the bridge (each digital SLR photos and digital photos from 3-D scans) presenting approaches, elevations and superstructure/ substructure elements, submitted on archival quality paper;
4. As-built drawings depicting plans and major elevations, submitted on 8.5x11" archival bond;
5. Data point clouds sufficient to create a 3-D image on a shareware (no cost) program such as AutoDesk TrueView, submitted on DVD(s);
6. Written contextual history and written architectural description of the bridge using the Illinois HAER designated outline format;
7. Submittal of 65% non-archival HAER documentation for SHPO review and comment prior to submittal of 100% HAER documentation;

B. The bridge appearance from the roadway level must be consistent and compatible with the installation historic district. Such appearance will be subject to SHPO review and concurrence. Handrails/parapets and lighting shall resemble that of the original handrails/parapets (intact) and light-

ing (currently removed and in storage) on the Barry Street Bridge as closely as possible, or shall be otherwise consistent with the historic character of the existing Sampson Street Bridge (1926), Barry Street Bridge (1911), or similar facilities of historical significance. The appearance of below-deck features is not of concern from a historical aesthetic perspective and may have a contemporary appearance. The deck design shall be approved at the 65% design stage.

- C. No construction (repair) of Sampson Street Bridge will be undertaken until the 95% HAER documentation is accepted in writing by SHPO. Acceptance shall not be unreasonably withheld and comments shall be provided pursuant to Section II of this Agreement.

II. SHPO COMMENT:

The SHPO will ensure that NSGL receives written comment concerning all NSGL project submittals within thirty (30) days of receipt. If no response is received by NSGL within the allotted time, SHPO concurrence will be presumed.

III. UNANTICIPATED DISCOVERIES:

In the event that previously unidentified archaeological resources are encountered during repair activities at the site of Sampson Street Bridge, work will cease in the immediate area of the discovery and in any adjacent areas where additional resources may be expected and the NSGL Cultural Resources Manager (CRM) will be notified immediately. The CRM will notify the SHPO of the discovery and will provide summary documentation of the area, disclose the nature of the discovery, and where appropriate, recommend treatment. The SHPO will provide any comments on the recommendation for treatment within 48 hours of notification. All other project activities not in the area of the discovery, or lacking the potential to impact the area of discovery, may proceed without interruption. These procedures for unanticipated archeological discoveries are also included in the Great Lakes Integrated Cultural Resources Management Plan.

IV. MONITORING AND REPORTING:

Each December until the termination or expiration of this agreement, NSGL will provide the SHPO with a written, concise report of the status of this undertaking. This shall be a summary report detailing work undertaken pursuant to the terms of this agreement and shall include any scheduling or other changes proposed, any problems encountered, and any disputes or objections that have arisen during the prior 12 month period.

V. DISPUTE RESOLUTION:

Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this agreement are implemented, NSGL shall

consult with the objecting party(ies) to resolve the objection. If the NSGL determines, within 30 days, that such objection(s) cannot be resolved, the NSGL will:

- A. Forward all documentation relevant to the dispute to the ACHP in accordance with 36 CFR Section 800.2(b)(2). Upon receipt of this documentation, the ACHP shall review and advise the NSGL on the resolution of the dispute within 30 days from the date of ACHP receipt. Any comment provided by the ACHP, and all comments from the parties to the agreement, will be taken into account by the NSGL in reaching a final decision regarding the dispute.
- B. If the ACHP does not provide comments regarding the dispute within the above 30-day period, the NSGL may render a decision regarding the dispute. In reaching its decision, the NSGL will take into account all written comments it has received regarding the dispute from any party.
- C. During the pendency of any dispute and prior to the resolution of such dispute under the Stipulation D, the NSGL shall continue to carry out all actions under this agreement that are not subject to or affected by the dispute. The NSGL will notify all parties in writing of its decision concerning any dispute processed in accordance with this Stipulation at least 10 (ten) days before implementing such decision. The NSGL's decision will be final.

VII. AMENDMENTS; FAILURE TO REACH AGREEMENT ON AMENDMENTS:

If any signatory to this agreement determines that any of its terms will not or cannot be carried out or that an amendment to the agreement must be made, that signatory shall immediately notify the other signatories. NSGL shall initiate consultation to negotiate an amendment pursuant to 36 CFR 800.6 (c) (7). The amendment shall be effective on the date a copy signed by all signatories is filed with the ACHP.

VIII. ANTI-DEFICIENCY ACT:

Any requirements in this agreement requiring the expenditure of appropriated funds are expressly subject to the availability of appropriations and the requirements of the Anti Deficiency Act (31 USC§ 1341). No obligation undertaken by the NSGL under the terms of this agreement shall require, or be interpreted to require, a commitment to expend funds in violation of the Purpose Statute, 31 USC§ 1301(a). NSGL will make reasonable and good faith efforts to secure the necessary funds to implement its obligations under this agreement. If compliance with the Anti-Deficiency Act alters or impairs the NSGL ability to implement its obligation under this agreement, NSGL will consult the other parties in accordance with the amendment and termination procedures per Stipulations VII and X.

IX: DURATION:

This agreement shall become null and void five (5) years from the date of its execution and shall be reviewed annually. This agreement may be amended and/or terminated prior to the expiration of this five-year period in accordance with Stipulations

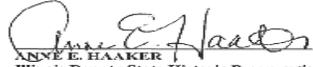
VII and X; or, the agreement shall expire upon satisfaction of all stipulations and acknowledgement of such satisfaction by the SHPO.

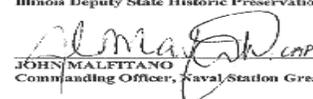
X. TERMINATION:

If any signatory to this MOA determines that its terms will not or cannot be executed, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VII, above. If, within thirty (30) days (or another time period agreed to by all signatories), an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories at least one-hundred eighty (180) days before the expiration date. Termination by either party shall not provide the basis for any claim against the United States Government.

Within thirty (30) days following termination, the NSGL shall notify the SHPO if it will initiate consultation to execute a new agreement under 36 CFR Part 800.6(c)(1) or request the comments of the ACHP under 36 CFR Part 800.7(a) and shall thereafter proceed accordingly.

SIGNATORIES:

 Date: June 8, 2010
ANNE E. HAAKER
Illinois Deputy State Historic Preservation Officer

 Date: 12 July 2010
JOHN MALFITANO
Commanding Officer, Naval Station Great Lakes

B.3. Scott Air Force Base

The Scott Air Force Base MOA, referring to the proposed demolition of Building 48 which is a contributing element to the Historic District:

**MEMORANDUM OF AGREEMENT
AMONG
THE DEPARTMENT OF THE AIR FORCE
AND
THE ILLINOIS HISTORIC PRESERVATION AGENCY
CONCERNING THE DEMOLITION OF BUILDING 48
SCOTT AIR FORCE BASE
ST. CLAIR COUNTY, ILLINOIS**

WHEREAS, the Department of the Air Force (DAF) intends to undertake the demolition of Building 48 at Scott Air Force Base in St. Clair County, Illinois; and

WHEREAS, DAF has consulted with the Illinois Historic Preservation Agency (IHPA) concerning the demolition of Building 48, pursuant to Section 106 of the National Preservation Act of 1966, as amended (16 U.S.C. 470f) and its implementing regulations "Protection of Historic and Cultural Properties" (36 CFR 800); and

WHEREAS, DAF and IHPA agree that Building 48 is listed on the National Register of Historic Places and the demolition of this structure is an adverse effect in accordance with 36 CFR Part 800.5(a); and

WHEREAS, both parties mutually agree that there is no prudent or feasible alternative to the project as originally proposed.

NOW, THEREFORE, DAF and IHPA agree that the following measures shall be implemented to mitigate the adverse effect of this undertaking on Building 48.

Stipulations

- I. DAF will ensure that the following measures are carried out:
 1. Building 48 shall be documented in accordance with the Illinois Historic American Buildings Survey Standards (IL HABS).
 2. The IL HABS number for the building shall be S-2011-1.
 3. Level III documentation shall be prepared by the applicant.
 4. Sketch plans, drawn in computer assisted drafting (CAD) format shall be produced on archivally stable Mylar sheets.
 5. Black and white digital photography of the buildings to include building site, exterior elevations, distinctive exterior architectural features and significant interior spaces and features shall be produced on archive stable photographic paper.

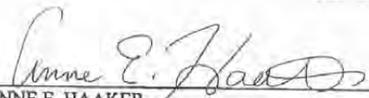
6. Written historic narrative of the buildings and a written architectural description of the buildings using the IL HABS designated outline format shall be completed.
7. The applicant shall award the recordation contract to the consultant of its choice, provided the consultant is qualified to perform the work and agrees to meet IL HABS Standards and guidelines
8. IHPA shall review the draft report and accept or reject the submittal within 30 days, in accordance with IL HABS Standards. Upon acceptance of the draft in writing, the applicant shall complete the final documentation and deliver one original and one electronic copy in PDF format on a gold CD to IHPA.
9. Upon IHPA's written acceptance of the draft IL HABS documentation, the applicant may commence demolition activities to the building.

Execution and implementation of this memorandum of agreement evidences that Scott AFB has afforded IHPA to comment on Building 48 demolition and satisfied its compliance responsibilities in pursuant to Section 106 of the National Preservation Act of 1966, as amended (16 U.S.C. 470f) and its implementing regulations "Protection of Historic and Cultural Properties" (36 CFR 800).

THE DEPARTMENT OF THE AIR FORCE


Date 5 DEC 2011
MICHAEL J. HORNITSCHKEK, Col, USAF
Commander, 375th Air Mobility Wing

THE ILLINOIS HISTORIC PRESERVATION AGENCY


Date 12-7-11
ANNE E. HAAKER
Deputy State Historic Preservation Officer

Appendix C: Fort Polk Standard Operating Procedures

The Fort Polk SOP is inserted below with no editing of the text or syntax. Point of Contact (POC) for this Process Assistance Sheet is Wayne Fariss (337-531-7417).

Fort Polk and JRTC Conservation Branch Process Assistance Sheet

Subject: LESSONS LEARNED ON MERGING THE NEPA AND SECTION 106 PROCESSES

Purpose: The purpose of this document is to provide the conservation support staff with information to consider when working with the command group and other directorates to successfully implement the merged NEPA/106 process.

Benefits to the process: The process for merging NEPA and Section 106 is beneficial to the installation because it:

- Enables an accelerated timeline due to the consolidation of resources and process:
 - Allows for scoping at the same time;
 - Allows for the proponent(s) involvement in one rather than two processes;
 - Allows our environmental support team work as one unit with the proponent(s);
 - If evaluation and review is required by higher headquarters, to include AEC, this process allows headquarters a consolidated review of the proposed funding, requirements and/or mitigations at one time;
- Allows for siting of projects in a workable area (i.e., SHPO surveys);
- Allows for a comprehensive outreach and consultation process with the public and stakeholders;
- Allows for the opportunity to continue fostering better relationships with consulting parties and the public.

Lessons Learned and Challenges: The challenges involved in successfully completing the merged NEPA and 106 processes occurred at four phases during the traditional NEPA process timeline. Each of these phases is outlined below and

additional concerns and issues are provided at the close of this document. The challenges associated with the merged process were most pronounced at these phases:

- 1) NEPA document timeline development;
- 2) NEPA and Section 106 scoping;
- 3) NEPA draft and final document /consultation; and
- 4) NEPA Decision document.

Phase I: NEPA Document Timeline

- The entire team (both NEPA and Cultural Resources) **MUST** meet, coordinate and develop a timeline for accomplishing the merged process – it is essential that this occur **EARLY** because this is the only opportunity the interdisciplinary team will have to shape the process and manage expectations with leadership, legal counsel, public affairs, and stakeholders.
- Reasons this step is critical :
 - we must show reasonable & good faith efforts towards Section 106 review;
 - the SHPO and the ACHP are not familiar with the NEPA process and documentation therefore, plans need to be made to involve them early in the timeline;
 - legal counsel and headquarters staff may have assisted previously with NEPA or 106, but they need to be involved early in the merged process due to unfamiliarity with the way the two work together;
 - The team chemistry and lead **MUST** be established before the NEPA and Section 106 process starts and the determination of who will take the lead on the scoping/outreach/public involvement **MUST** be decided.

Phase II: NEPA and SECTION 106 Scoping/Notification of Merged Process

- The language used and stakeholder (NEPA or Section 106) expectations must be considered at this stage. The NEPA-106 team must understand that the NEPA scoping is for the public and agency input and the Section 106 stakeholders are being informed of the process, which may/may not result in input. There is precise language that needs to be developed and included from the 106 standpoint at this stage. Some essential points to live by are:
 - Do not lose sight of the requirement/mission;
 - We must still consult in the spirit and literal requirements of Section 106;
 - Determine which language should be used. The technical language used in NEPA and 106 differ so it is important to be cognizant of those differences and define terminologies during scoping; using language consistently can also prevent confusion. The problem is the Cultural Resources staff desire/require lots of detail

in their scoping (i.e. resources, etc.) NEPA staff want the public's input on how to develop viable alternatives & issues to be analyzed;

- Remember as a general statement SHPOs are more comfortable with MOA or PAs instead of NEPA decision documents (FNSI/RODs) due to their ability to sign onto those documents;
- Section 106 language is very specific & therefore the volume of text almost doubles in any scoping effort so the audiences can be confused due to unfamiliar language in the scoping effort (i.e., Section 106 stakeholders receiving NEPA language or vice versa).

Phase III: NEPA Draft and Final Document/Consultation

A. Draft NEPA

- During this phase of the NEPA process input from the public and/or regulatory community has been received, addressed and the draft NEPA document is being developed. At this point in document some of the potential impacts are beginning to become evident. This is the critical point at which enough information and the potential impact(s) is available to successfully consult on any cultural resources impact(s). This phase in the merged process is a challenge to the NEPA practitioners since traditionally they are not ready to go back to the stakeholder(s). However, this consultation is essential during the merged process to be able to discuss consultation results/outcome in the final document that will be sent back to cultural resources stakeholders for review. Things to keep in mind:
 - avoid possible "foreclosure" of ACHP opportunity to comment (recommendations from the 2009 Preserve America expert panel report); before a draft EA or Draft EIS is issued;
 - initiate consultation (notify SHPO/THPO and invite other consulting parties); and
 - consult on the Area of Potential Effect (APE), historic property identification, and effects.

B. Final NEPA

- This point also is a little bit of a change for the NEPA practitioner. The draft decision document language needs to be developed as early as possible so that it can be vetted with both consulting parties and headquarters staff during the document finalization process (the process of which review party goes first is still a question in our mind). This makes an additional step in our merged timeline which leadership needs be aware of and understand. "Staff work" with HQRs on agreed upon mitigations under NEPA usually takes one month, but Section 106 commitments take much longer (approximately 3 months) due to the extra step of talking to cultural resources stakeholders.

- It is essential that the NEPA document makes it very clear what the terms of mitigations or concessions are; this will enable the consultation language in the decision document text to remain precise.
- The language for the cultural resources section of the NEPA document and decision document has to be approved by headquarters, which basically left an unfinished section in the NEPA document

Phase IV: NEPA Decision Document

- If we are successful in the phase above the decision document phase should follow equally successfully but if we have a contentious consultation it could impact the project timeline because we do not want “foreclosure” of ACHP opportunity to comment (recommendations from the 2009 Preserve America expert panel report): before a FNSI or FEIS-ROD is issued, resolve effects (mitigation).
- Liberally use appendices to attach Section 106 documentation to the NEPA document as well as the NEPA decision document gives flexibility to incorporate changes based on consultation enabled. This strategy was used during the Land Purchase Program EIS and was the only way we could cleanly come to an agreement with our consulting parties before the ROD was signed.

Additional Issues, Concerns and Advice: Note these are provided by topic so it should be expected that some things are duplicated.

- **Make all of the HHQ elements and advisors comfortable:**
 - how to put the language in the NEPA decision document and again the appendix approach worked well for us during the Land Acquisition NEPA document;
 - make sure alternatives are viable not just created to dismiss because we are going to be consulting on them);
 - during the final draft stage fully develop the language for the NEPA decision document ;
 - ensure our NEPA decision document language is vetted with the SJA and Headquarters staff and obtain their buy in as early as possible; and
 - liberally use appendices to attach Section 106 documentation to the NEPA document as well as the NEPA decision document this gives us the flexibility to incorporate changes based on consultation.
- **Lack of guidance**
 - develop the language for the NEPA decision document.
- **Where do the administrative type documents reside**
 - Determine early on who keeps track of and stores the administrative record for both the Section 106 and NEPA merged process;

- Determine jointly, both cultural resources and NEPA, at a minimum what should be included in the administrative record; An EIS ROD has appendices language that resembles language in a PA; and
 - PAs take a long time due to the fact that all the tribes must agree to the language & sign the document.
- Cooperation
 - Do not lose sight of the mission.
 - Coordination
 - coordination of the effort (i.e., cultural resources staff generally lean towards their resource whereas coordinating staff usually leans towards their field of expertise);
 - Coordination of outreach/public involvement events.
 - Document Development
 - Determine where to insert the Section 106 and NEPA merged text into the NEPA document since it is more robust, from the cultural resources stuff.

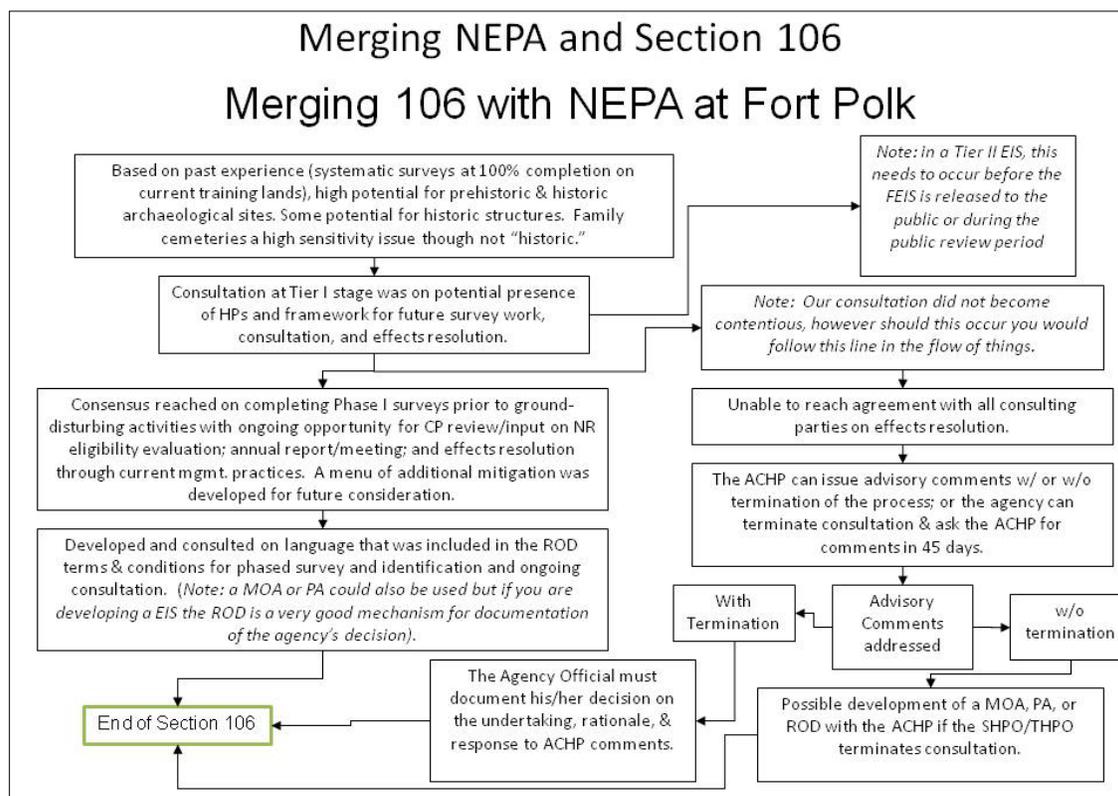


Figure 19. Flow chart of integrating the NEPA and Section 106 processes at Fort Polk, Louisiana.

Appendix D: Federal Requirements and Supplemental Information

D.1. National Environmental Policy Act requirements

The language of NEPA was crafted in a way that allowed for timely consideration of environmental values during planning stages to foster “conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans” (Caldwell 1997, 31). Although eloquent, the requirements of NEPA were subject to broad interpretations which resulted in volumes of EA and EIS documents that attempted to address every conceivable environmental factor of a given project. As a decision-making tool, these documents proved to be too cumbersome to be useful. As NEPA compliance processes developed throughout the 1980s, a shift in focus occurred from merely producing extensive documents toward careful environmental thought and action.

Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose (40 CFR § 1500.1 [c]).¹⁵

Accordingly, as a decision-making tool, NEPA's provisions allow for collaboration and streamlining processes. NEPA analyses should display the characteristics of being integrated into an agency's planning process, be systematic in analyses and include a public review process; documents should be written in plain language, be focused on relevant issues; overall the document's approach should be problem-solving, objective, and based on interdisciplinary research. The following experts from NEPA state the

¹⁵ <http://ceq.hss.doe.gov/nepa/regs/ceq/1500.htm>

purpose of the law as well as the sections where collaboration and integration with other federal requirements is encouraged.

Sec. 2 [42 USC § 4321]

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.¹⁶

Sec. 101 [42 USC § 4331]

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may --

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.¹⁷

¹⁶ <http://ceq.hss.doe.gov/nepa/regs/nepa/nepaeqia.htm>

¹⁷ <http://ceq.hss.doe.gov/nepa/regs/nepa/nepaeqia.htm>

Sec. 102 [42 USC § 4332]

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall --

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.¹⁸

**Council on Environmental Quality Regulations for Implementing NEPA
[40 CFR Parts 1500-1508]****Sec. 1500.5 Reducing delay**

Agencies shall reduce delay by:

- (a) Integrating the NEPA process into early planning (Sec. 1501.2).
- (b) Emphasizing interagency cooperation before the environmental impact statement is prepared, rather than submission of adversary comments on a completed document (Sec. 1501.6).

¹⁸ <http://ceq.hss.doe.gov/nepa/regs/nepa/nepaeqia.htm>

- (d) Using the scoping process for an early identification of what are and what are not the real issues (Sec. 1501.7).
- (f) Preparing environmental impact statements early in the process (Sec. 1502.5).
- (g) Integrating NEPA requirements with other environmental review and consultation requirements (Sec. 1502.25).
- (h) Eliminating duplication with State and local procedures by providing for joint preparation (Sec. 1506.2) and with other Federal procedures by providing that an agency may adopt appropriate environmental documents prepared by another agency (Sec. 1506.3).
- (i) Combining environmental documents with other documents (Sec. 1506.4).¹⁹

Sec. 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.²⁰

The stated CEQ guidance provides the framework for the integration of NEPA processes with other federal policy requirements. The emphasis on combining procedures required by other laws, reducing paperwork, and employing interagency cooperation all support finding where NEPA overlaps with other processes to reduce overall redundancies. To this effect, many federal agencies have written NEPA regulations specific to their operational actions.

D.2. National Historic Preservation Act requirements

Section 110 (16 USC 470h-2)

- (a) (1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake,

¹⁹ <http://ceq.hss.doe.gov/nepa/regs/ceq/1500.htm>

²⁰ <http://ceq.hss.doe.gov/nepa/regs/ceq/1506.htm#1506.4>

consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(g), any preservation, as may be necessary to carry out this section.

(2) Each Federal agency shall establish (unless exempted pursuant to Section 214), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties.

36 CFR Part 800—Protection of Historic Properties²¹

36 CFR Part 800 outlines the Section 106 of the NHPA process that federal agencies must accomplish when considering new undertakings. The Section 106 process seeks to accommodate historic preservation concerns with the needs of undertakings through consultation among agency officials and other stakeholders who have an interest or stake in any undertaking on a historic property. The Section 106 process should be started early in the project planning phases to accomplish the goals of consultation which are to identify historic properties potentially affected by the undertaking, to assess its effects, and to seek ways to avoid, minimize, or mitigate any adverse effects on historic properties. Part 800.8 speaks directly to the potential of integrating NHPA requirements into the NEPA process.

36 CFR Part 800.8—Coordination with the National Environmental Policy Act

(a) *General principles*

(1) *Early coordination.* Federal agencies are encouraged to coordinate compliance with section 106 and the procedures in this part with any steps taken to meet the requirements of the National Environmental Policy Act (NEPA). Agencies should consider their section 106 responsibilities as early as possible in the NEPA process, and plan their public participation, analysis, and review in such a way that they can meet the purposes and requirements of both statutes in a timely and efficient manner. The determination of whether an undertaking is a “major Federal action significantly affecting the

²¹ http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr800_main_02.tpl

quality of the human environment,” and therefore requires preparation of an environmental impact statement (EIS) under NEPA, should include consideration of the undertaking's likely effects on historic properties. A finding of adverse effect on a historic property does not necessarily require an EIS under NEPA.

(3) *Inclusion of historic preservation issues.* Agency officials should ensure that preparation of an environmental assessment (EA) and finding of no significant impact (FONSI) or an EIS and record of decision (ROD) includes appropriate scoping, identification of historic properties, assessment of effects upon them, and consultation leading to resolution of any adverse effects.

(c) *Use of the NEPA process for Section 106 purposes.* An agency official may use the process and documentation required for the preparation of an EA/FONSI or an EIS/ROD to comply with section 106 in lieu of the procedures set forth in §800.3 through §800.6 if the agency official has notified in advance the SHPO/THPO and the Council that it intends to do so and the following standards are met.

(1) *Standards for developing environmental documents to comply with Section 106.* During preparation of the EA or draft EIS (DEIS) the agency official shall:

(i) Identify consulting parties either pursuant to § 800.3(f) or through the NEPA scoping process with results consistent with § 800.3(f);

(ii) Identify historic properties and assess the effects of the undertaking on such properties in a manner consistent with the standards and criteria of §§ 800.4 through 800.5, provided that the scope and timing of these steps may be phased to reflect the agency official's consideration of project alternatives in the NEPA process and the effort is commensurate with the assessment of other environmental factors;

(iii) Consult regarding the effects of the undertaking on historic properties with the SHPO/THPO, Indian tribes, and Native Hawaiian organizations that might attach religious and cultural significance to affected historic properties, other consulting parties, and the Council, where appropriate, dur-

ing NEPA scoping, environmental analysis, and the preparation of NEPA documents;

(iv) Involve the public in accordance with the agency's published NEPA procedures; and (v) Develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects of the undertaking on historic properties and describe them in the EA or DEIS.

(2) *Review of environmental documents.* (i) The agency official shall submit the EA, DEIS, or EIS to the SHPO/THPO, Indian tribes, and Native Hawaiian organizations that might attach religious and cultural significance to affected historic properties, and other consulting parties prior to or when making the document available for public comment. If the document being prepared is a DEIS or EIS, the agency official shall also submit it to the Council.

(ii) Prior to or within the time allowed for public comment on the document, a SHPO/THPO, an Indian tribe or Native Hawaiian organization, another consulting party or the Council may object to the agency official that preparation of the EA, DEIS, or EIS has not met the standards set forth in paragraph (c)(1) of this section or that the substantive resolution of the effects on historic properties proposed in an EA, DEIS, or EIS is inadequate. If the agency official receives such an objection, the agency official shall refer the matter to the Council.

D.3. Nonprofit preservation organizations

National Preservation Institute

The National Preservation Institute (NPI) is a nonprofit organization that offers continuing education and professional training for professionals involved in the management, preservation, and stewardship of cultural heritage. Although NPI works most directly with the requirements of the NHPA, the organization does provide guidance for cultural resources professions on how to integrate NHPA and NEPA requirements.

For example, the NPI website provides information on NEPA for cultural resources managers.²² This guidance helps professionals working in management and preservation areas to understand the implications of NEPA on their operations, stating that “NEPA can be a powerful tool for managing the impacts of the modern world on ‘cultural resources’ such as historic buildings, historic districts, archaeological sites, Native American traditional places, and traditional ways of life.” Viewed in this way, the NEPA process, when combined with the requirements of NHPA, offers cultural resources professionals more options with which to protect and manage cultural resources.

NPI clarifies that because the language in both acts are similar, when NHPA was amended in 1980 the “language regarding purposes and policy was adapted from NEPA.”²³ The result is that these two acts serve similar purposes, affording opportunities for integration and substitution between the two processes. According to NPI, NEPA’s policy includes the following language that directly addresses cultural aspects of the environment. NEPA states that the government will:

*... use all practicable means . . . to the end that the Nation may
...
(2) assure for all Americans . . . esthetically and culturally
pleasing surroundings;
(4) preserve important historic, cultural, and natural aspects
of our national heritage . . . NEPA Sec. 101(b).²⁴*

Although the language of NEPA allows for flexible interpretations, an important aspect of the policy is that it calls for interdisciplinary analysis of environmental issues. By calling for interdisciplinary coordination, the NEPA process addresses multiple areas and issues in the built environment, including cultural and historic resources. This calls together experts in social sciences as well as coordination with those in the environmental design arts.

*(A) All agencies of the Federal Government shall –
(A) Utilize a systematic, interdisciplinary approach which
will insure the integrated use of the natural and social sci-*

²² <http://www.npi.org/nepa>

²³ <http://www.npi.org/NEPA/policy>

²⁴ <http://www.npi.org/NEPA/policy>

ences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment. NEPA Sec. 102

The NPI website continues to outline the importance of NEPA to cultural resources management by listing things to do in addition to the environmental review. Although they are not as explicitly defined as the environmental review, the additional things to consider are:

- Consider here some examples of things other than environmental review that an agency might do under the authority of NEPA. Consider environmental protection and enhancement in general policymaking.
- Budget for environmental projects and personnel.
- Include how environmental factors are handled when evaluating the performance of personnel.
- Provide environmental information to the public.

NPI interprets NEPA regulations as:

NEPA, the National Environmental Policy (not "Protection") Act, articulates general Federal policy favoring protection of the environment, but its major action-forcing mechanism is a requirement that agencies consider the effects of their actions on the "human environment."

Regulations implementing NEPA have been issued by CEQ in the Executive Office of the President. CEQ is a three-member council of Presidential appointees served by a small staff. The regulations are at 40 CFR 1500-1508 – that is, Title 40 of the Code of Federal Regulations, Parts 1500 through 1508. The regulations apply to all Federal agencies and all agency actions. The basic requirement is to analyze the effects of the action and consider these effects in decision making.

A common "myth" about NEPA is that it applies only to "major Federal actions significantly affecting the quality of the human environment." In fact, NEPA applies to ALL agency actions, but type of actions with different levels of potential environmental impact receive different levels of consideration. MFASAQHEs must be given the highest level of consideration through preparation of an Environmental Impact Statement.²⁵

NPI provides further guidance on their website on the NEPA process and how it applies to cultural resource managers.

D.4. Department of Defense²⁶

32 CFR 188—Environmental Effects in the United States of DoD Actions

188.4 Policy

(a) The Department of Defense must act with care to ensure to the maximum extent possible that, in carrying out its mission of providing for the national defense, it does so in a manner consistent with national environmental policies. Care must be taken to ensure that, consistent with other considerations of national policy and with national security requirements, practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

- (1) Achieving the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other consequences that are undesirable and unintended;
- (2) Preserving important historic, cultural, and natural aspects of our national heritage, and maintaining, where possible, an environment that supports diversity and variety of individual choice;
- (3) Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved; and
- (4) Enhancing the quality of renewable resources and working toward the maximum attainable recycling of depletable resources.

(b) The Department of Defense shall:

²⁵ <http://www.npi.org/NEPA/regulation>

²⁶ <http://ceq.hss.doe.gov/nepa/regs/agency/agencies.cfm>

- (1) Assess environmental consequences of proposed DoD actions that could affect the quality of the environment in the United States in accordance with enclosure 1 and 40 CFR parts 1500–1508.
- (2) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and environmental considerations in planning and decision-making where there may be an impact on man's environment.
- (3) Ensure that presently unmeasured environmental amenities are considered in the decision-making process;
- (4) Consider reasonable alternatives to recommended actions in any proposal that would involve unresolved conflicts concerning alternative uses of available resources;
- (5) Make available to States, counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment; and
- (6) Utilize ecological information in planning and developing resource-oriented projects.

DOD Directive 6050.7 (31 March 1979), Environmental Effects Abroad of Major Department of Defense Actions

This directive implements EO 12114 and provides policy and procedures to enable DOD officials to take into account environmental considerations when authorizing or approving certain major Federal actions that have the potential to do significant harm to the environment beyond the geographic borders of the United States. This requires an environmental assessment that should include consideration of the need for the proposed action and its environmental effect. If the proposed action is determined to significantly harm the environment, an environmental impact statement must be prepared. The statement may be a specific statement for the particular action, a generic statement covering the entire class of similar actions, or a program statement. See 32 CFR 187.

DOD Directive 6050.1 (30 July 1979), Environmental Effects in the United States of Environmental Actions

This directive implements the CEQ regulations (40 CFR Sections 1500–1508) implementing Section 102(2) of the NEPA, and provides policy and procedures to enable DOD officials to take into account environmental considerations when considering the authorization or approval of major DoD actions within the United States. The directive requires DoD components to integrate the NEPA process during the initial planning stages of proposed DoD actions to ensure that planning and decisions reflect environmental values, and to preclude potential conflicts. See 32 CFR 188.

DOD Instruction 4715.9 (03 May 1996), Environmental Planning and Analysis

This instruction establishes policy and assigns responsibility for integration of environmental considerations into Department of Defense activity and operational planning. It requires integration of environmental considerations into installation master planning and operational planning, and into acquisition programs. It also requires the heads of DoD components to integrate environmental considerations into their activities and operations, and to provide policy and procedures for implementing the instruction.

D.5. Federal agency NEPA procedures (non-DoD)

In addition to CEQ guidance, other federal agencies have written regulations for implementing NEPA into their unique operating procedures. CEQ compiles a list of federal agencies' guidelines for complying with NEPA that can be referenced from their website.²⁷ Agencies listed include the Department of Agriculture, Department of Energy, Department of Housing and Urban Development, Department of State, and the Department of Transportation, among others. Independent agencies are also listed include the ACHP, NASA, and the EPA, among others. A survey of selected agency regulations provides a general summary of how CEQ regulations are supplemented by individual agency.

Department of Agriculture

7 CFR 1B

The Department of Agriculture's guidance for NEPA reinforces the CEQ regulations at 40 CFR 1500-1508 and supplements the CEQ regulations by directing the department's agencies to develop and implement procedures for compliance with NEPA. Reducing duplication of efforts is emphasized, but specifics involving the integration of NEPA with other processes are not discussed.

²⁷ <http://ceq.hss.doe.gov/nepa/regs/agency/agencies.cfm>

U.S. Forest Service

36 CFR 220

The USFS is an agency within the Department of Agriculture that incorporates CEQ regulations, Department of Agriculture regulations, and its own guidance for achieving NEPA compliance.

Department of Energy

10 CFR 1021

The purpose of the DOE regulations is to comply with NEPA and the guidance outlined by CEQ 40 CFR 1500-1508. The DOE regulations encourage interagency cooperation as well as reduce duplication of efforts. While no explicit instructions are provided on integrating NEPA and Section 106, the regulations support this type of action.

U.S. Department of Interior

43 CFR 46²⁸

The Department of Interior (DoI) and the bureaus, offices, and services under its direction share a common set of regulations for compliance with NEPA procedures. In addition to following CEQ regulations, the DoI guidance stated that procedures should highlight adaptive management strategies that may be incorporated into alternatives, included in the proposed action.²⁹ However, the Bureau of Land Management specifically addresses the coordination of NEPA and NHPA compliance.

*Bureau of Land Management: Instructional Memorandum No. 2012-108 (May 1, 2012)*³⁰

The purpose of this instructional memorandum is to restate and emphasize the existing policy, and to provide guidance on gaining efficiencies in the environmental review process by coordinating procedures for compli-

²⁸ http://ceq.hss.doe.gov/nepa/DOI_NEPARegFR_Oct15_08.pdf

²⁹ http://ceq.hss.doe.gov/nepa/DOI_NEPARegFR_Oct15_08.pdf page 61292

³⁰ http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2012/IM_2012-108.html

ance with NEPA and Section 106 as well as meeting BLM's tribal consultation responsibilities. Therefore, it is the policy of BLM that the procedures for complying with NEPA and Section 106 should be coordinated.

Because NEPA sets forth a process that provides the agency an opportunity to evaluate alternatives and engage the public, BLM incorporates into their NEPA analysis available information on potential impacts to cultural, historic, and tribal resources and possible mitigation measures gathered through the NHPA Section 106 and Tribal Consultation processes. Offices must complete both the NHPA Section 106 process and Tribal Consultation prior to making a final decision on a proposed action. As the memorandum states:

Coordination will allow the BLM to: (1) conserve resources by gathering information that helps to support all of these requirements at the same time; (2) reduce redundancy and avoid unexpected and unnecessary delays by synchronizing the schedules for meeting these requirements; (3) make it easier for the public and tribes to understand when and how to contribute to the BLM decision making processes for various issues; and (4) reduce litigation liability by ensuring that the requirements of these processes are met in a timely manner.

One of the principal opportunities for coordinating NEPA and NHPA Section 106 compliance is the public notification and comment processes in situations where an EIS is found to be appropriate. For example, rather than carry out a separate procedure for public notification to meet NHPA Section 106 requirements, the BLM may reference both authorities when publishing a Notice of Intent (NOI) or Notice of Availability (NOA) in the Federal Register and/or a notice of a public meeting in the newspaper. Referencing both statutory processes informs the public of their opportunity to bring forward Section 106-related information, concerns and opinions, as well as broader environmental issues that help to inform the NEPA process.

*National Park Service - Director's Order #12: Conservation Planning and Environmental Impact Analysis, and Decision-Making*³¹

The NPS follows the DOI's regulations for NEPA compliance in 43 CFR 46 but has also produced several NEPA handbooks. The most recent handbook, Director's Order 12 (DO-12), does not conflict with CEQ regulations, but does add some requirements that go beyond those imposed by CEQ to help the NPS guide their actions in meeting laws and policies specific to their operations.

DO-12 discusses working with other agencies, and encourages cooperation between Federal agencies in sharing information requirements that overlap with NEPA. It states "The study of these resources and information about their present status (i.e., affected environment), or the impact they may experience from your park's proposal, should be integrated into your NEPA document. The NPS must consult local, state, and other federal agencies as part of scoping to determine all of the applicable requirements and any permits needed for project completion."

Specific to Section 106 of NHPA, NPS guidance (DO-12 2.13.C.3) requires federal agencies to consider the effects of their proposals on historic properties, and to provide SHPOs, THPOs, and, as necessary, the ACHP, a reasonable opportunity to review and comment on these actions. Section 106 review and NEPA are two separate, distinct processes. They can and should occur simultaneously, and documents can be combined, but one is not a substitute for the other. They should, however, be coordinated to avoid duplication of public involvement or other requirements. The information and mitigation gathered as part of the 106 review must be included in the NEPA document, and the 106 process must be completed before a FONSI or an ROD can be signed on a proposal that affects historic properties.

US Fish and Wildlife Service

The US Fish and Wildlife Service has prepared regulations which specifically address the issue of integration of NHPA and NEPA procedures. That guidance³² is summarized below:

³¹ http://www.nature.nps.gov/protectingrestoring/do12site/01_intro/011_intro.htm

³² http://www.fws.gov/HistoricPreservation/crp/pdfs/CRM_NEPA.pdf

Considering Cultural Resources Under NEPA Guidance

National Environmental Policy Act

Federal or federally-assisted projects must take into account effects on historic and cultural resources.

CEQ NEPA Regulations (40 CFR 1500-1508)

Department of the Interior NEPA Procedures/Guidance

Departmental Responsibilities for Indian Trust Resources and Indian Sacred Sites on Federal Lands (DOI Environmental Compliance Memorandum 97-2)
Departmental NEPA Procedures (516 DM 1-6)

FWS NEPA Guidance

FWS NEPA Procedures in the Departmental Manual (516 DM 6, Appendix 1)
NEPA Guidance in Service Manual (550 FW 1-3)

Council on Environmental Quality NEPA Regulations

Definition of “Effects” requires that the EA/EIS must address historic and cultural resources. (40 CFR 1508.8).

Adverse and beneficial effects must be addressed in NEPA documents. (40 CFR 1508.8).

The “Affected Environment” section of an EA/EIS should provide background information on the prehistory and resources that may be affected by the project. (40 CFR 1502.15).

The “Environmental Consequences” section of the EA/EIS must address effects to historic or cultural resources that could result from the proposed action and each alternative. (40 CFR 1502.16(f)).

**DOI & FWS Cultural Resources and
NEPA Policy and Guidance**

DOI/FWS NEPA procedures and guidance mirror CEQ’s regulations.

DOI ECM97-2 requires:

- Identifying impacts to Indian trust resources and sacred sites
- Consulting with the affected tribe(s).
- Address all impacts to cultural resources in the “Environmental Consequences” section of the EA/EIS.
- Substantial impacts to Indian trust resources or sacred sites must be addressed as a separate impact topic in the “Environmental Consequences” section.
- If there are insignificant or no impacts to Indian trust resources or sacred sites, state it as such in the scoping section of the EIS.

FWS Service Manual, 614 FW 1-5

- Requires that all Environmental Action Statements be reviewed and signed by the appropriate Regional Historic Preservation Officer.
- Thresholds for considering effects on cultural resources are lower than under NEPA. Categorical exclusions under NEPA do not apply to the NHPA compliance process. (614 FW 2.2.B)

**Integrating NEPA with the Section 106 Process
Key Points**

- Begin addressing Section 106 issues in the NEPA scoping process.
- Section 106 compliance should run parallel and be integrated with the NEPA process.
- The results of Section 106 compliance should be completed and incorporated into the final EA/EIS and FONSI/ROD.
- If a FWS action is categorically excluded under NEPA, this does not eliminate the need to comply with Section 106.
- DOI NEPA procedures provide an exception to categorical exclusions when historic and cultural resources may be adversely affected.
- Any unresolved cultural resources issues necessitate the preparation of an EA.

Integrating NEPA with the Section 106

Section 106 Process

Is the project an undertaking? Consult with tribes, SHPO and interested parties. If an undertaking, define the area of potential effect. Identify and evaluate historic properties.

Assess effects.

Integrating NEPA with the Section 106 (cont'd)

Consult to develop a MOA to mitigate adverse effects. If necessary, consult with the ACHP. Proceed and implement the terms of the MOA.

NEPA Process

Address issues driving the scoping process. And Incorporate issues into the preliminary draft EA/EIS.

 Address assessment of effects on historic properties in the preliminary draft EA/EIS.

 Issue Draft EA/EIS and address comments on S. 106 compliance process in preliminary final EA/EIS.

Issue of final EA/EIS

Issue of FONSI/ROD, and implement actions.

Department of Transportation

Federal Highway Administration, 23 CFR 771³³

To meet the provisions of NEPA and CEQ regulations, the Federal Highway Administration (FHWA) has issued additional guidance as Environmental Impact and Related Procedures (23 CFR 771). Related to these regulations is the FHWA Environmental Review Toolkit website which interprets issues involved with environmental planning. NEPA processes are discussed, and they focus on efficiently complying with NEPA requirements. When considering the indirect and cumulative impacts of the NEPA process, the FHWA recommends analysis of other environmental regulations, legislations, and authorities to be considered. This includes the regulations for implementing Section 106 of the NHPA, which includes delineating an area of potential effects.

National Aeronautics and Space Administration, 14 CFR 1216³⁴

In addition to following CEQ guidance for complying with NEPA, NASA has also published agency-specific NEPA regulations that were mapped to NASA's mission and personnel. NASA guidance emphasizes reducing duplicated efforts and combining processes where possible. During the envi-

³³ <http://www.environment.fhwa.dot.gov/projdev/qaimpact.asp>

³⁴ <http://law.justia.com/cfr/title14/14-5.0.1.1.18.3.html>

ronmental review process, the guidance stipulates compliance with Section 106 of the NHPA with identification of National Register properties, eligible properties, or potentially eligible properties within the area of potential impact of a NASA-proposed action. The guidance also stipulates that evaluation of the impact of the NASA action on such properties shall be discussed in draft environmental impact statements and transmitted to the ACHP for comments.

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